19.1117.02000

FISCAL NOTE
Requested by Legislative Council
02/14/2019

Amendment to: SB 2360

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed SB 2360 changes the definition of farm income for purposes of the farm residence property tax exemption. It also removes the existing limitation on non-farm income.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of SB 2360 changes the definition of farm income to "gross" in place of "net". The bill also changes the share that farm income must be relative to total income from 50% of net, to 66% of gross income, or more. Additionally it removes the dollar limitation for allowable non-farm income.

If enacted, engrossed SB 2360 may result in additional residences qualifying for property tax exemptions, primarily due to the repeal of the limitation on allowable non-farm income. Additionally, the switch from net to gross income may also enable additional residences to qualify as exempt farm residences. The number and value of additional residences that may become exempt under the provisions of engrossed SB 2360 is not known.

Any change in farm residence exemptions will shift the property tax burden among taxable property owners in the taxing district but will not change property taxes overall.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn Strombeck

Agency: Office of Tax Commissioner

Telephone: 701.328.3402

Date Prepared: 02/14/2019

19.1117.01000

FISCAL NOTE
Requested by Legislative Council
01/21/2019

Bill/Resolution No.: SB 2360

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2360 changes the definition of farm income for purposes of the farm residence property tax exemption. It also removes the existing limitation on non-farm income.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of SB 2360 changes the definition of farm income to "gross" in place of "net". The bill also changes the share that farm income must be relative to total income from 50% of net, to 66% of gross income, or more. Additionally it removes the dollar limitation for allowable non-farm income.

If enacted, SB 2360 may result in additional residences qualifying for property tax exemptions, primarily due to the repeal of the limitation on allowable non-farm income. Additionally, the switch from net to gross income may also enable additional residences to qualify as exempt farm residences. The number and value of additional residences that may become exempt under the provisions of SB 2360 is not known.

Any change in farm residence exemptions will shift the property tax burden among taxable property owners in the taxing district but will not change property taxes overall.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn Strombeck

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Telephone: 701.328.3402

Date Prepared: 01/25/2019

2019 SENATE FINANCE AND TAXATION COMMITTEE

SB 2360

2019 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2360
1/28/2019
Job #31562

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Alicia Larsgaard

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to the calculation of income for purposes of the farm residence property tax exemption; and to provide an effective date.

Minutes:

Attachments: 4

Chairman Cook: Called the hearing to order on SB 2360.

Senator Jim Dotzenrod: Introduced SB 2360. See attachment #1 and #2. Attachment #1 shows you our history of how we got here. It tells you that this was created in 191 because the constitution didn't provide for exempting any property. This had to be a change in the constitution. In the third paragraph, in the first 50 years, there we no changes. In the post WW2 era, this created a lot of the issues we have today when more and more infrastructure was built. The third page is a form that the IRS when they try to determine who is a qualified farmer and qualified to do estimated taxes. I talked to some tax payers about the qualified farmer definition on page 3. That was the first change. We try a lot to use the federal dates, definitions, and deadlines. We have a first income test to see if 50% of your net income come from farming. The colored graph shows property taxes. We have a hard time convincing people that we should raise income taxes 10% or 20%, the loss of this exemption. For people that are already contributing large amounts of money into the property tax system, to have this small exemption on their home seems like a concession. The last part of the handout shows that we should plan for negative incomes on grain farms in 2019. There is a chart on the second page that gives the income expectations for 2019. This is about our 5th year in a row of declining net farm income. It seems like many of the people paying taxes on the ag land they farm is getting to be very large. We should do this to make sure everything is consistent. With that, I will take some questions if you would like.

Senator Patten: Based on the fiscal note, it indicates that this would have the tendency to expand the exemptions, correct?

Senator Dotzenrod: One of the issues that is pushing this right now is the many people who don't qualify, who have been pushed on to the tax roles who shouldn't be there is you believe the exemption is real. If those people come back and are recognized in our code as legitimate farmers, they will go back and become tax exempt. It could have the effect of taking some of the injustice that has been done and reverse it. It is a correction to some oversight of this section of the code.

Senator Patten: You set the budget as the dollars you need then you calculate it back to the mill levies. Ultimately the impact of this with the expansion or correction of the exemption would not reduce the total budget needed, it would just shift the liability to other property owners.

Senator Dotzenrod: That is correct. The same way as it has been operating in the reverse. We have been shifting the burden to ag in a matter that is not justified. If you try to correct that you will have some drift back the other way.

Senator Patten: Would it be easier for the IRS to convert to the North Dakota.

Senator Dotzenrod: If the IRS wanted to complicate its life, then yes.

Senator Robert Erbele, District 28: Testified in favor of the bill. I like moving to gross income in farms. When you talk about net income, you have a lot of deductions. Your net can become very small. In my area, I have a lot of people who are being hurt by the $40,000 off farm and they are mostly the young farmers who are needing off farm income. Their heart and soul is in it. I have a number of people living in very simple homes. That adds an additional burden to them. I had an opportunity to elk hunt in Idaho. We got into economic conversation when it comes to farming and ranching. He took a stick and drew three circles in the dirt and said that one is the family living, one is travels, and one is real estate. You can have debt in two of those circles, but you can't have debt in all three and make it on the farm. We need to keep that family living circle free so they can operate.

Julie Ellingson, Stockman's Association: Testified in favor of the bill. One of the issues is the archaic off fund income threshold that uses the criteria for the farm residence exemption which renders many ineligibles. The trigger at $40,000 has not been updated since 1997. That means that that threshold is old enough to vote and buy beer and it hasn't been kept up with inflation. What should the number we use be then? By adopting the definition farmer already used by the IRS, we do not have to choose an arbitrary number or continue to revisit it over and over again. This approach makes us consistent with federal law and as a percentage of the income instead of a hard and fast number that becomes outdated over time. If we are committed to modernizing the exemption eligibility verification process that we should modernize the exemption itself. For these reasons we ask for your passage of this bill.

Dan Wogsland, North Dakota Grain Growers Association: Testified in favor of the bill. See attachment #3. We think that this is a concept that will solve issues in determining who should qualify for the farm home tax exemption.

Chairman Cook: You heard my hypotheticals I gave on the previous bill about land owners A-C. What do you think about that?

Dan Wogsland: I think what we have here is a determination issue. You are always going to have winners and losers. We understand that. That being said, we think that taking it to the gross income is an approach that people can recognize and easily qualify for.

Senator Patten: When we increase the exemption and that shifts that tax burden to the rest of the tax payers which also happens to be the farmer and rancher is the one pocket into the other of some counties, that some homes are not high income homes. Could you address that?

Dan Wogsland: You will have some of that because there will be some shifting. We all have to pay the taxes necessary to meet the concerns. I do not know, whether or not this does a huge shift to that. My sense is that it won't but I can stand to be corrected.

Senator Patten: This would be a huge advantage for McKenzie County but I am guessing there are others that it would not.

Dan Wogsland: Your analysis is accurate.

Chairman Cook: Can you describe to me a farmer that would not qualify under this federal exemption.

Dan Wogsland: I think that farmers that deserve the exemption would qualify under this. I would imagine that you could envision where you have equal incomes off and on farms. You may also have businesses that would tribute to the none farm side. On average, this is a reasonable approach to take a look at the farm home exemption. Something needs to be done. We think this is the right step.

Scott Rising, ND Soybean Growers Association: Testified in favor of the bill. See attachment #4. The numbers on the second sheet of my testimony talk about taxes that are paid. I think Senator Dotzenrod's testimony about the 1919 genesis of this exemption glows in the fact that it is number 10 among things such as religious organizations and lodges. This was intended to help agriculture succeed in the state of North Dakota. There is a fairness question here. On the chart, I have gathered information that talks about the average taxable value in the center of the page under the light blue. I computed the average ad valorem tax paid per acre by each county. That footnote #2, ag census is only taken every 6-7 years. The new one is due in the middle of the legislative session. This information is somewhat dated from 2012 while the tax paid information is from 2017 from the tax department. I will try to address the issue of fairness. If we are going to tax a farm home, in Adams county, the average farm is already going to pay $5,900 in property tax.

Chairman Cook: The average tax per farm is a function of two things; the type of soil and how many acres.

Scott Rising: I get all that but if you take the total acres and total farms and try to get a handle on what the average is.

Chairman Cook: Are the total acres the same for every one of these columns?

Scott Rising: Total acres is based on the fourth column and total county ag acres.

Chairman Cook: So that is multiplied by what?

Scott Rising: It is times the average ad valorem price paid per acre; $3.86 in the case of Adams county times the number of acres, divided by the number of farms. You end up with an average. It is simply to try and describe that there is a starting point that our folks who I would assume have this is equity in their mind, is just not fair. I address that at the top of page 2 in my testimony. I have lots of folks who have talked to be about this issue and many of them simply do not acknowledge that each class of taxable entity and each exemption is intended to do something and that not all of us as property tax payers are similarly situated. I exchanged my labor for some kind of agreement on compensation. The hardware down the street from me sells a pair of plyers based on some competition but certainly they have an input to that pricing mechanism. The other part of that is their cost of doing business and they price they pay for property tax. The ag producer doesn't have that same luxury. We take, as a producer, the best offer we can get. IT is a different equation. While gross incomes are frequently high, net incomes do not match that necessarily. I take care of my mother in law's farm land with her help. A couple hundred acres is rented. I have some family that all of a sudden thought we needed to drastically increase the price of land rent. The farmer who rents it, decided to build a machine shed, which he spent a couple 100,000 building it. That is my example between gross and net income. We can get into the fact that the services are less. People learn to depend on their neighbors and work together. Several sessions ago I made that comment in this committee. I honestly believe we get better citizens out of rural ND than other places. It removes what I call the initiative penalty. I do not think we want to discourage people from working and finding different mechanisms to make this living in the rural area, work. My term for it is crazy. The bottom line is that we don't want to do anything in public policy that discourages people to live outside our city limits. There is no good public policy need, to discourage the depopulation of what I call, "country North Dakota". I will be happy to answer any question and I would urge your passage of this bill.

Kayla Pulvermacher, ND Farmer's Union: Testified in support of the bill. I wanted to make sure that we go on the record saying that these three bills start a conversation between ag and the rest of the stakeholders who have been part of this conversation for as long as I can remember. That goes back to 2007. With that, I will take any questions.

Lance Gaebe, ND Corn Growers Association: Testified in favor of the bill. There are lots of concerns with the way the law is applied. We do appreciate the efforts to try to bring this into a mechanism that works. You asked the previous presenter about the farmers that would not qualify. Of a part time weekend farm, we have 2.5 quarters and a 4 room farmhouse that we use when we are there for that weekend. We presently pay taxes on that. Even with the gross changes, I do not think the income is likely because of the 2/3rds aspect, I do not think we would qualify, because most of my income comes from my town job, not my farm job. I think it is intended to be towards the full times farmers who are living there full time and not the weekend farmers. I would stand for any questions.

Craig Olson, Colfax, ND: Testified in favor of the bill. I grew up in Colfax and have lived there my whole life. I am married and have 4 kids. I have been married to my wife for 10 years. I currently farm with my brother and my father. My wife is part of the farm as well as my kids. After college I returned to the farm and farmed 2-3 years with my brother together, but separately. We wrote two different checks and so one. After a few years of that, it got old so we simplified. We looked into creating a partnership. When we created that, we also created another entity for our sugar wheat shares. This was a way for my brother and I to farm efficiently on paper and yes, for federal tax reasons as well. It didn't take two of us anymore to sit in the office and do the work. My brother is a genius at the tax and books part. I sit in the shop. He does that, I do what I do and we are both happy. We work together well that way. When I returned home, I had the opportunity to purchase some land from a neighbor that retired and quit farming. I was 24 at the time. Five years ago we purchased some more land that we were renting from an elderly couple that wanted to sell before they passed on. Our partnership rents that land from me. My wife also works part time. I appreciate what she does and the benefits she brings home with health insurance. These scenarios are why I am here today. My partnership and cash rent alone, I receive myself, exempts me from the current status of law. When you add my wife's income in, it doesn't match. It is the actual farming that I do that is considered non income. That is what is effecting me. My life is farming and I hope that never changes. This bill will help take the burden of my farm, family, and wife. She has been trying to stay home for years to raise a family, put more work in the farm, and help out. With current law, it puts a burden on our tax bill and it does hurt my family and the opportunities that we do get as a growing family and farm. I do have a few numbers here. I was exempt in the past, but not now because of the work sheet. We went back and forth many times with the auditor. It created an opportunity to talk to her about these issues. Knowing that the work sheet I did not pass, I got a letter in the mail from the tax department. I had over a $10,000 increase on my property tax. I knew it was coming.

Chairman Cook: That was just for your house?

Craig Olson: Yes. My dad built it after his growing stages of a farm. He built it in the 90s and he wanted the opportunity to move off the farm and for me to move on to it. Anyone who has a family of 4, can barely afford a new house for $250,000 with the capabilities to be on the farm with it and have significant room for you and your kids. I failed because of non-farm income which was partnership through K-1 sugar beet distribution and cash rent to myself. I have a few examples here. With these figures and the new system that this bill will create, I will be at 17% tax level. That is my percentage of off farm income. That is considering the partnerships and everything. On a better year, I was .33333. That is still over 67% of my farm that is not taxed that way. This bill would take that burden. Currently, my farm is about 3,500 acres. We don't own it all, we rent some also. Doing the math, that is about a $50,000 tax bill of what gets paid out on land taxes. I personally pay $3,800 on my 300 acres that I own. That is $12.50 per acre. Those numbers prove that, I don't care what kind of house you live in, my taxes would be more than I pay on my own personal property on my farm property. I do encourage the passage of this bill. It protects us with the change in the economy and this keeps farmers at home and on their properties. They aren't going to get smaller, they are getting bigger. That means less people who are living in the rural communities. This is a way for me to protect myself so I can still be a farmer down the road and let my family and kids have the opportunity to do that. I am open for questions. I thank Senator Dotzenrod for bringing this bill forward so we can have this conversation.

Jamie Hegg, Carson, ND: Testified in favor of SB 2360. We farm and ranch south of Carson. Personally, this does not affect us. Both my brother's wife, and my wife, do not work off the farm so all of our income comes from on farm. I do believe this effects a lot of my neighbors whose wives do work off the farm. Insurance alone could be $24,000 of that off farm income. With that, I would support this and I hope you will too. I don't think its effecting people like me that if you got rid of it, we could pay this, but it does effect the small farms and ranches out there that really need this. I believe this is a good step forward. With that, I will stand for any questions.

Shaun Quissell, ND Department of Agriculture: Testified in favor of SB 2360. The commissioner is in support of this bill and I will stand for any questions.

Larry Syversen, ND Township Officers Association: Testified in favor of the bill. Our association has a long history of supporting the farm home exemption. We are favorable on this bill to move to the modernized definition of a farmer.

Chairman Cook: Any further testimony in favor? Any testimony opposed?

Terry Traynor, Association of Counties: Testified in opposition of the bill. My membership is conflicted on this. We are concerned. If indeed, we can simplify how this is calculated, that is a plus. If there are two numbers that we can take total income and gross income and divide the numbers and come up with a percentage, that could solve a lot of problems. There are at least 10 Attorney Generals' opinions on that section of century code. There are at least 10 county commissioners that have been taken to court to try and resolve what it actually means. The concern that was raised by our commissioners is "do we have to go through this again?" If we change this definition are we going to have to litigate this to find out what it means again? If it is simple, maybe we don't and that would be great. I hope the tax department will get up and explain if this makes a difference in it. The other issue is if it truly does expand it, will it go away entirely if it looks like we are expanding too much? That is why I am standing on this side of the sign in sheet. We are willing to work with the committee and work out those issues.

Chairman Cook: Any further opposed testimony? Any neutral?

Linda Leadbetter, Office of the Tax Commissioner: Testified neutrally for the bill. I would respectfully request that we consider the effective date with this one and understand that our application timeline is February 1 of 2018, identifying an entirely new process for filing these documents. I would like to consider an idea that this were available following the 2019 tax year. As far as questions relating to the work sheet and the establishment of that and creating a simpler format, I would have to rely on the other experts in the income tax section of the tax department.

Joe Becker, Tax Department: Testified neutrally for the bill. With respect to one of the concerns raised by the counties; when you look at the tie in to the federal threshold and how they measure it, a lot of the Attorney Generals' opinions were on things like compensation for labor as opposed from crops and livestock. In the federal definition, they cover that. They don't include your cash rent and your farm and labor in the farm income. Some of those "Generals' is covered with the federal definition. Form the federal perspective, they need to zero in on the gross income number for purposes of the farm definition for the estimated tax rules. They carefully draft their forms whether you are in a sole partnership, partnership, or whatever it is, they need to bring those numbers and identify those for folks in the tax return. From that perspective, that is a lot easier to find those numbers and not have to worry about adding back depreciation and try to figure out what is farm and what is non-farm and how to associate expenses with each one of those. The idea itself came from accountants in the field and I would have to agree with them that this is going to simplify the process. I am not for or against. From having been brought into the fray in developing that worksheet, I would have to say I do like the approach.

Senator Dotzenrod: One of the questions that we have been dealing with is does it really make anything simpler? Does it help with the work the county directors have? The current from that you developed is the verification of income that the counties are using. I think it is about 3 pages long. If this were to pass, you would have to develop a new worksheet. Do you suspect that this would be a little easier for the tax preparers and tax accountants if we use this approach? If we have a shorter form would it be less work? How do you see the cost to comply compared to where we are now?

Joe Becker: As we were working on looking over the legislation to see if we found any particular concerns, I did pull the various federal documents we have looked to and went through them under the new scheme. Even if your county assessors have to sit down with it, they will find that the numbers are easily found. You are not asking a lot of questions about depreciation, basis of assets, etc. I am envisioning that that worksheet will go from 3 to 1 page. I do not know what will be on there. You have the other feature about requiring it whether or not we put some kind of signature line. I see a greatly simplified worksheet that most are going to be happy to see.

Chairman Cook: Any further testimony? We will close the hearing on SB 2350.

2019 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2360
2/13/2019
Job #32690

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Alicia Larsgaard

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to the calculation of income for purposes of the farm residence property tax exemption; and to provide an effective date.

Minutes:

Attachments: 2

Chairman Cook: Called the committee to order on SB 2360.

Senator Dotzenrod: Distributed proposed amendments. See attachment #1 and #2. These amendments do 3 things. On page 2, near the bottom, we took off "federal taxable" and put in "gross income as defined under federal internal revenue code". We do the same thing in the next line down. They were taking out this language such as "cultivating the soil" and "commodities". Those terms are in the federal IRS definitions. Rather than repeating them in state law, we refer back to the federal section on page 3 lines 8-11 where we refer to section 6654 of the federal internal revenue code. This came from the state tax department. We do not need to have various kinds of activities that would qualify as farm activities because they are in that reference. On the last page, we changed the date to 2019. There are three changes that do not affect the way the bill functions or the way the bill is used to compute gross income and the 2/3rds. They make it more technically correct in being able to find specifically where this definition is.

Chairman Cook: We go from 50% of net income to 66% of gross income?

Senator Dotzenrod: Yes.

Chairman Cook: Will that still require a form to be filled out to apply for it?

Senator Dotzenrod: Yes. It will require a form that has not been developed yet. Currently, the Tax Department has that three-page worksheet. They would have to replace that worksheet. That really isn't in the code. That would be their way of verifying income.

Chairman Cook: How many more farmers will be qualified for the far residence exemption?

Senator Dotzenrod: I do not know. The last year or two years have had a lot because they can't qualify under the system we have now. Some of those who have been legitimate farmers all along, would come back into the system. It seems like this is a good definition that captures most of the folks that are actually farming. We are using the farm definition in federal law. As far as the numbers that are going to be shifted back that have been bumped out, I think a lot will be able to qualify under this.

Chairman Cook: So there will be more of a tax burden spread to non-farmers.

Senator Dotzenrod: Also to the farmers themselves. On their farmland, that will show up as a shift away from those residences onto their farmland. Taxes would probably go up some.

Senator Dotzenrod: Moved to Adopt the Amendments.

Senator Unruh: Seconded.

Chairman Cook: Any Discussion?

A Voice Vote Was Taken.

Motion Carried.

Senator Dotzenrod: Now as amended, I think a lot of this discussion we have had in the session has come about because the counties felt that they have been put in the position of the tax accountants or trying to separate out how to explain it to the tax payers. What we have currently in our law is an exemption on a farm residence and then a set of qualifications that make it almost impossible to qualify for the exemption if you are actually a farmer. I think we are at a point that if we are going to make it work, we need to do something to change it. By using a federal definition, makes it direct simple and clean. I will hope the committee is comfortable with passing this. We have received a lot of good feedback from the farm organizations and the commissioner of agriculture.

Chairman Cook: I do not have to say why I will not be voting for this.

Senator Patten: I have been thinking about this for a while and I would like to give an example of someone who would not qualify. I will use on off farm income of about $100,000. Let us say they run cattle on the side as well. They would probably need to run somewhere in the range of 70 head of cattle in order for their operation to qualify and get to that 66%. The small 15-25 head operations would not allow them to qualify on this. We more often see this with small cattle operations. There can be some small farm operations too. Those would not qualify too.

Senator Dotzenrod: There are going to be a number of farmers that will not qualify. I have talked to very large operations as well that think they will not qualify. The example that Senator Patten gave; that individual probably will not qualify under current law. I cannot qualify under the old definition or the new definition because of the changes in the ratio of farm to non-farm income. Those folks that are out doing a lot of full time work and dedicating most of their time and effort, will be able to make this fit for them better than this current definition that we have. In today's farming, there are three big things no matter what dollar value you set. The first thing is cash rent. Almost any operation today where they are trying to bring a young person in, has to use cash rent. That is about the only way you can let that young person in and get started and have a share. It is really a consequence of high land prices. That young person is in a poor person to be buying land but they can come in with some cash rent. The second big thing is custom farm operations. Custom farm operations now include some things that we did not used to think of. One of the is if you read seed beans. Soy beans have become very popular in ND. A lot of these companies are sending a 1099 to the farmer at the end of the year which is off farm income. That is a growing phenomenon. What, in the past that was usually called farm income, is now being called off far income. The third one is equipment sales. If you purchase a machine under the new federal tax law, that trade in is now called off farm income. Even if we make this change, we will see that those things are still going to be there accounting against your ability to qualify.

Chairman Cook: How?

Senator Dotzenrod: Under this law, you are saying 2/3rds or more of your income has to come from farming. If you have machine sales, that will be part of the 1/3 that is left. If you have cash rent, that will fall in there as well as spouse income. You have a zone that if it exceeds 33%, will fill in a lot.

Senator Dotzenrod: Moved a Do Pass on SB 2360 As Amended.

Senator Patten: Seconded.

Chairman Cook: Any Discussion?

Senator Kannianen: The biggest thing for me are a couple of county commissioners who I have spoken to that are farmers and ranchers and land owners. They would personally benefit from this and yet they are opposed to it because when they look at both perspectives, the county and the personal side, they feel the exemptions they already received from their outbuildings are fair. The exemption they do not receive on their house because they have enough off farm income, is not too concerning.

Chairman Cook: I have neighbors in a $225,000 that do not make $40,000. They are widowers and they pay tax. I find this issue repulsive. That is my opinion.

A Roll Call Vote Was Taken. 3 yeas, 3 nays, 0 absent.

Motion Failed.

Senator Meyer: Moved a Do Not Pass on SB 2360 as Amended.

Senator Kannianen: Seconded.

Chairman Cook: Any Discussion?

A Roll Call Vote Was Taken. 3 yeas, 3 nays, 0 absent.

Motion Failed.

Senator Kannianen: Moved to send the bill out Without Committee Recommendation as Amended.

Senator Meyer: Seconded.

Chairman Cook: Any Discussion?

A Roll Call Vote Was Taken. 6 yeas, 0 nays, 0 absent.

Motion Carried.

Senator Kannianen will carry the bill.

19.1117.01001
Title.02000

Prepared by the Legislative Council staff for
Senator Dotzenrod
January 30, 2019

SC
1/02

PROPOSED AMENDMENTS TO SENATE BILL NO. 2360

Page 2, line 24, replace "federal taxable" with "gross"

Page 2, line 24, replace "computed" with "defined"

Page 2, line 26, remove "federal"

Page 2, line 26, overstrike "taxable" and insert immediately thereafter "gross"

Page 2, line 28, remove "cultivating the soil or raising agricultural"

Page 2, line 29, remove "commodities. The term includes"

Page 2, line 29, overstrike "the following"

Page 2, line 29, remove "amounts"

Page 2, line 29, overstrike the colon

Page 2, line 30, overstrike "(a)"

Page 3, line 1, remove "Income from operating a stock, dairy,"

Page 3, line 2, remove "poultry, bee, fruit, or truck farm"

Page 3, line 2, overstrike the period

Page 3, line 3, overstrike "(b)"

Page 3, line 4, remove "Income from a plantation, ranch, nursery,"

Page 3, line 5, remove "range, or orchard"

Page 3, line 5, overstrike the period

Page 3, line 6, overstrike "(c)"

Page 3, line 7, remove "Crop shares for the use of the"

Page 3, line 8, replace "farmer's land" with "farming as defined for purposes of determining if an individual is a farmer eligible to use the special estimated income tax payment rules for farmers under section 6654 of the federal Internal Revenue Code [26 U.S.C. 6654]"

Page 3, remove line 9

Page 3, line 10, overstrike "(4)" and insert immediately thereafter "(5)"

Page 3, line 17, overstrike "(5)"

Page 3, line 23, remove the overstrike over "~~(6)~~"

Page 3, line 25, remove the overstrike over "~~(7)~~"

Page 3, line 25, remove "(6)"

Page 3, line 31, replace "2018" with "2019"

Renumber accordingly

Date: 2-13-19
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2360

Senate Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: 19.1117.0100 /

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ ______

Motion Made By Dotzenrod Seconded By Unruh

Senators	Yes	No	Senators	Yes	No
Chairman Cook			Senator Dotzenrod		
Vice Chairman Kannianen					
Senator Meyer					
Senator Patten					
Senator Unruh					

Voice Vote
Motion Carried

Total (Yes) ______ No ______

Absent ______

Floor Assignment ______

If the vote is on an amendment, briefly indicate intent:

Date: 2-13-19
Roll Call Vote #: 2

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2360

Senate Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: ____________________

Recommendation:
☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ ____________________

Motion Made By Dotzenrod Seconded By Patten

Senators	Yes	No	Senators	Yes	No
Chairman Cook		✓	Senator Dotzenrod	✓	
Vice Chairman Kannianen		✓			
Senator Meyer		✓			
Senator Patten	✓				
Senator Unruh	✓				

Total (Yes) 3 No 3

Absent 0

Floor Assignment ____________________

If the vote is on an amendment, briefly indicate intent:

Date: 2-13-19
Roll Call Vote #: 3

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2360

Senate Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: ______

Recommendation:
☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ ______

Motion Made By Meyer Seconded By Kannianen

Senators	Yes	No	Senators	Yes	No
Chairman Cook	✓		Senator Dotzenrod		✓
Vice Chairman Kannianen	✓				
Senator Meyer	✓				
Senator Patten		✓			
Senator Unruh		✓			

Total (Yes) 3 No 3

Absent 0

Floor Assignment ______

If the vote is on an amendment, briefly indicate intent:

Date: 2-13-19
Roll Call Vote #: 4

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2360

Senate Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description:

Recommendation:
☐ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☒ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions:
☐ Reconsider ☐

Motion Made By Kannianen Seconded By Meyer

Senators	Yes	No	Senators	Yes	No
Chairman Cook	✓		Senator Dotzenrod	✓	
Vice Chairman Kannianen	✓				
Senator Meyer	✓				
Senator Patten	✓				
Senator Unruh	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Kannianen

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2360: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2360 was placed on the Sixth order on the calendar.

Page 2, line 24, replace "federal taxable" with "gross"

Page 2, line 24, replace "computed" with "defined"

Page 2, line 26, remove "federal"

Page 2, line 26, overstrike "taxable" and insert immediately thereafter "gross"

Page 2, line 28, remove "cultivating the soil or raising agricultural"

Page 2, line 29, remove "commodities. The term includes"

Page 2, line 29, overstrike "the following"

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Page 2, line 30, overstrike "(a)"

Page 3, line 1, remove "Income from operating a stock, dairy,"

Page 3, line 2, remove "poultry, bee, fruit, or truck farm"

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Page 3, line 3, overstrike "(b)"

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Page 3, remove line 9

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Page 3, line 25, remove "(6)"

Page 3, line 31, replace "2018" with "2019"

Renumber accordingly

2019 HOUSE FINANCE AND TAXATION

SB 2360

2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2360
3/6/2019
33315

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Mary Brucker

Explanation or reason for introduction of bill/resolution:

Relating to the calculation of income for purposes of the farm residence property tax exemption.

Minutes: Attachment 1-6

Chairman Headland: Opened hearing on SB 2360.

Senator Dotzenrod: Introduced bill. Distributed written testimony, see attachment 1. This bill is about the farm resident exemption from property tax. The way this bill is now it fails to reflect the practices that farmers use today. It has been a matter of concern for some time. It's difficult for full-time farmers to meet the qualifications that are in 57-02-08. This is an attempt to define and simply the terms of the exemption and to recognize commonly used practices that under current law function to prevent many active full-time farmers from qualifying. The bill makes three changes to the law: It changes the qualifying farm income test from the 50% or more of net income to 66% or more of gross income. This definition was taken from the IRS guide. The idea here was to have a clear definition of a qualified farmer from some unbiased third party. The second change is that current law allows a look-back of three years. The definition that's in the IRS is a look-back of two years. I would prefer to keep it at three years but since the IRS says it should be two years. The current system requires someone who qualifies to meet two tests; the 50% of net income and the second test of not having more than $40,000 off farm income. That second test was deleted; there is no separate test of off farm income in the IRS definition of a qualified farmer. We then thought that should be taken out in order to be consistent with them. The objectives are to allow the exemption to function as it was originally intended for full-time farmers doing the normal common practices part of farming and agriculture today and to meet the requirements of the law to qualify for the exemption. It should ease the burden on counties to enforce this, understand it, and explain it to the taxpayers. The first page of the handout is a memo that goes into the history. This exemption was first set into law in 1919. For the first 50 years it has worked well without the need for changes. After World War II, in the 1960s, there became a trend toward more homes being built outside of the major cities. A lot of those residents wanted to be tax exempt as well. They tried to attempt to figure out how to separate those homes out that were around those cities from farm homes to non-farm homes which caused the amending. The third page of the handout is the definition of a qualified farmer.

On page 88, or the fourth page of the handout, there are examples of how this law would work. Page five is a chart of our tax system. Farmers are willing to pay property taxes. These taxes keep growing and there's pressure in a low net income environment so it is becoming an issue for the farming community. You could estimate farm income to be zero based on the current trends, prices, and yields. It is significant that we have many counties in the state where most of the revenue comes from agriculture. People are finding it difficult to maintain their farm operations. We need to try and make the system fairer. Under the current rules there are a lot of farm residences that are losing that exemption. If we're going to have the farm residence exemption, then we should find a way to make it work and identify who's doing the farming and who isn't. There will be some farmers who will not qualify because they will not have the gross income necessary to offset the one-third that's left. The federal tax law changed in 2017, it used to be one transaction. Under the new federal law, they are treated as two separate transactions. You get full depreciation on the machine you buy but the one you trade in is treated as sale and is off farm income. There are various factors that throw people off of the definition; spousal income, cash rent, custom farming and machine sales. All four of them are trending up the way farms operate today.

Chairman Headland: Under this new definition, is rental income going to be considered farm income?

Senator Dotzenrod: Cash rent will still be off farm income. All four of those I mentioned are still going to count against every farmer and there will be some that will have trouble making it with this new definition. Today if you want bring a young person into the farm operation you're probably going to do it with cash rent.

Representative B. Koppelman: On the first page of your testimony in 1983 they put spousal requirement in.

Senator Dotzenrod: When they did that in 1983 it was $20,000 of off farm income. It was a way for tax directors to try and separate out who was farming and who wasn't. The current $40,000 started in 1997. The way it is today if you're going to trade or sell a tractor with the $40,000 threshold today then you're no longer a farmer.

Representative B. Koppelman: We have a marriage penalty built into this. Do we need to consider who else resides in the home? If you don't get married your spouse could make an unlimited amount of money and you still qualify for the exemption.

Senator Dotzenrod: There's a social factor going on in today's world with people living together and not getting married. The legislature could change it and not count the spousal income; don't call it off farm income, or farm income and just ignore it. In trying to keep this bill simple those things that count against farmers today are going to continue to count against farmers in this version. The $40,000 is such a narrow zone that it doesn't fit with the types of things you're doing with machine sales, cash rent, and those things. This bill allows to accommodate that. I don't know how to otherwise fix the spousal income other than putting it in the law that we're just going to ignore it.

Representative B. Koppelman: Is it the right thing to do if a person is getting their taxable income down so they don't have to pay any tax, then should we be considering their gross income when calculating this?

Senator Dotzenrod: I think you could do the same thing with net income. Fifty percent of net to me just isn't a very good measurement in today's world. If you use gross, then you can legitimately say that everybody is dealing with fairly large expenses.

Senator Erbele: There are young people in my district who want to be farmers but they have to do these other things to get the farm established. The $50,000 net doesn't work for a family either because starting out you have a lot of deductions. It's very easy to have a negative net income even though it doesn't really tell you what your cash position is but on paper you'll show a negative net. It will be a shift of who will be paying tax. The gross is going to be an easier thing to administer. I've always had an issue with the farm home tax. I feel a tax should provide some service to you and we don't get the benefit of the services from the taxes such as water, sewer, curb, fire, ambulance, etc. This is a better direction to go.

Senator Wanzek: If we're going to have a farm home exemption we need to know who a farmer is and isn't. By using gross revenue you're taking into account there would be a significant number of commodities that are being grown to get to the 2/3 of gross income from agriculture. The current situation punishes young farmers. You start with little to nothing and it makes it difficult to generate profit from a farm. The majority of them have spouses or they themselves are doing other things to try and build up that farm. This seems like it's simpler to me and it's more objective. I think this could provide some consistency.

Agriculture Commissioner Doug Goehring: Distributed written testimony, see attachment 2. Ended testimony at 27:49.

Chairman Headland: We'll take testimony in support.

Paul Thomas, Vice President for the North Dakota Corn Growers: Distributed written testimony, see attachment 3. Ended testimony at 30:59.

Chairman Headland: Further testimony in support?

Emily Bendish, North Dakota Stockmen's Association: Distributed written testimony, see attachment 4. Ended testimony at 32:47.

Chairman Headland: Further testimony in support?

Scott Rising, North Dakota Soybean Growers Association: Distributed written testimony, see attachment 5. Ended testimony at 41:04.

Representative Steiner: I heard this will help young farmers and the people who are testifying are established farmers. How is this going to help young farmers?

Scott Rising: In my testimony there is a letter from a young farmer in the eastern part of the state. His wife works outside the farm and earns enough money that it bumps them into the category where they lost this exemption they've had forever on the farm. His wife can't leave that job and come back to the farm to help because of the cost of health insurance.

Representative Steiner: You want the spouse working to be exempt completely so it wouldn't be counted in this bill? They could possibly have a million-dollar home. This bill is very open ended.

Scott Rising: I don't have an answer for the million-dollar home. If a spouse is making enough money for them to have $1 million home if 2/3 of the gross income doesn't come from the farm they're not going to qualify anyway. I don't know how to fix that without affecting everyone else.

Chairman Headland: In those cases if you looked at the property tax obligation of that particular farmer it would show that they are paying property tax too.

Representative Ertelt: What's your idea of fair share in general?

Scott Rising: As it relates to property tax, I don't know. It's hard to say.

Representative Ertelt: Has there been conversation amongst the agriculture community about a different form of taxation looking at income based versus property tax?

Scott Rising: In the soybean world there has been no discussion of replacing property tax with some other tax.

Chairman Headland: Further support?

Dan Wogslund, Executive Director of the North Dakota Grain Growers Association: We are in support of SB 2360.

Emmery Mehlhoff, North Dakota Farm Bureau: We've had the opportunity to speak with our legislative task force and they are in favor of this bill. Many of them have been in situations where they have sold equipment which will cause them to lose their farm home exemption. I am a young farmer and am married to a rancher. I grain farm and my husband ranches. I often do custom harvesting and custom tillage for farmers in the area. Because we were just starting out we bought some pasture land because of our depreciation and the expenses of becoming a young farmer that puts the our 50-50 situation under this where we could potentially lose our farm home exemption. We're in a situation where a lot of young farmers starting out this might not affect them the first or second year but it could potentially affect them the third year.

Kayla Pulvermacher, North Dakota Farmers Union: We are also in support of this bill.

Larry Syverson, North Dakota Township Officers Association: We support the farm home exemption.

Chairman Headland: Further testimony in support? Is there opposition? I have a question for the tax department. Couldn't these bills be combined into one?

Linda Leadbetter, State Supervisor of Assessments for the Office of the State Tax Commissioner: I don't see a reason why they couldn't. With SB 2178 we're also including the homestead credit as far as the confidentiality so we want to make sure that continues as well.

Chairman Headland: Is there anything else? Seeing none we will close the hearing on SB 2360.

Neutral testimony handed out by **North Dakota Association of Counties, Donnell Preskey. See attachment 6.

2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2360
3/6/2019
33337

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Mary Brucker

Explanation or reason for introduction of bill/resolution:

Relating to the calculation of income for purposes of the farm residence property tax exemption.

Minutes:

No attachments

Chairman Headland: I think this bill is important. I don't think the exemption is usable now with the new federal tax laws that treat your trade as off farm income. I think we have to do something.

Representative B. Koppelman: If the committee wants this bill to pass and not change the intent then there needs to be some work done on this. I'm going to bring up concerns such as going from net to gross income. That would expand this and not just by changing it to meet the new tax law requirements.

Chairman Headland: I don't think the tax department feels it's going to be an expansion. We can work this bill if the committee wants.

Representative B. Koppelman: I'd be happy to work on some amendments.

Representative Kading: Moving from net to gross isn't necessarily a good thing. You can work your books to show different things. I think it's an expansion. I don't think a small business owner in town is less deserving of a property tax break than a farmer. I don't think I can support this bill in any form.

Representative Mitskog: MADE A MOTION FOR A DO PASS

Representative Eidson: SECONDED

Chairman Headland: Discussion?

Representative Dockter: We are just trying to update this. I think this is a good step and a good compromise. You can switch your books however you want. I don't have a problem with the net or the gross.

Chairman Headland: The argument that you can cook your books disgusts me that people would do that to get an exemption.

Representative Dockter: I don't see a problem with the bill and I will support the bill.

Chairman Headland: It's going to shift some burden if there is expansion. In a lot of areas that shift will go to agriculture property since that's where the farm residences are located and that's who's paying the bulk of the taxes in most cases. We realize that in other areas it will shift in commercial and residential as well.

Representative Mitskog: We're the only state left that has this exemption. Incomes are the lowest they've been in 20 years.

Chairman Headland: I'd be willing to have the discussion any time if the shift went to the ag side of the equation. This is a 100-year-old exemption. The bill isn't about whether we have the exemption, it's about fixing the exemption so it's usable. I think this bill needs to be supported.

Representative B. Koppelman: That was my intention of what I was suggesting. I look at this as a good intention with a few things that I have trouble agreeing with. By pushing it forward without an amendment the likelihood of it passing is lower because there are people who see it as an expansion.

Chairman Headland: Do you see it as a major expansion?

Representative B. Koppelman: I do see it as an expansion with the way it's written because we're removing the $40,000 cap which changes the function of the formula. We're changing the formula from gross to net. I don't view it as cooking the books but I think this makes it easier to qualify.

Chairman Headland: Anything else?

ROLL CALL VOTE: 7 YES 7 NO 0 ABSENT

MOTION FAILED

Chairman Headland: I think we'll think about this for another day.

2019 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2360
3/13/2019
33644

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Mary Brucker

Explanation or reason for introduction of bill/resolution:

Relating to the calculation of income for purposes of the farm residence property tax exemption.

Minutes:

Attachment 1

Chairman Headland: I prefer we pass this bill in its original form. What are your wishes?

Representative Trottier: I voted no the first time around but because I heard so much about that I am changing my vote and am voting yes on it.

Representative B. Koppelman: Distributed proposed amendments, see attachment 1. I'm going to oppose the bill as it is because it will lead to an expansion. This transfers property tax from one individual to another in those areas. The $40,000 cap is one of the factors. The biggest factor is going from gross to net.

Representative Ertelt: I would like a little explanation.

Representative B. Koppelman: Explained proposed amendments. The first was a change in how the Trump tax works. The farmers were getting a capital gain based on the trading of equipment. If we stay with the net the idea was to exempt that gain as being part of the formula so it stayed the same as it used to be a couple years ago. If you go to the gross it wouldn't be an issue. The second concern was the $40,000 cap that was last updated in the late 90s. The third thing had to do with either 1099 income from selling seed being considered other income versus farm income or cash rents received by farmers that are attempting to pass the farm on to somebody else and the younger farmer can't afford to buy the farm so they are cash renting. The problem I have with the bill as it is now is because it uses the federal definition that says if 2/3 of your gross income comes from farming you're a farmer. If the intent is to go back to the way it was in 1919 when all farmers were exempt it's probably on its way of doing that because it's expanding the definition to more people. I'm not going to make a motion on the amendments.

Chairman Headland: A question came up as to a qualification of a retired farmer. Can you go through that?

Linda Leadbetter, State Supervisor of Assessments with the Office of the State Tax Commissioner: As the law is administered today if an individual, at the time of retirement, is receiving the farm residence exemption as an active farmer they may retain that exemption through their retirement as long as they remain in the same home they had when they were exempted as an active farmer. Instances where we find it doesn't happen is when an individual is receiving it as a farm labor as his partnership and upon retirement because he was not an active farmer under that category at retirement then that home would be taxable at the time of retirement.

Chairman Headland: If you had a situation where a farmer had retired then he got bored and started working again, would he lose his farm exemption?

Linda Leadbetter: Generally not. The idea is if someone retired as a farmer in law it is only defined as due to illness or age, it is the local decision for them to make that determination. If I were to retire at 52 as a farmer then become a new business owner that would not fit the definition of retired. They would have to look at each individual circumstance.

Chairman Headland: Does this bill clarify all of this?

Linda Leadbetter: I don't believe that it is specifically addressed in there but I don't think we're removing that specific language in the law from these changes. This is addressing the income side of it not those other retirement things in the law as today.

Chairman Headland: That is a bit of an issue that should be fixed. I was told that the gentleman lost his exemption when he went to work again. It was an interpretation that was done locally. The bill doesn't specifically address that.

Representative Dockter: MADE A MOTION FOR A DO PASS

Representative Eidson: SECONDED

Representative Ertelt: I agree that by moving to the gross, even though it's an increase of 66%, it will be a tax exemption.

Chairman Headland: We have a do pass motion on the table.

Representative Ertelt: I believe it's an expansion. I'm not opposed to the farm home exemption. I feel everyone should be living in their home tax free. If we get rid of the limitation on that $40,000 off farm income, then I think there's a balance and something that is less expansive. I will support this but cautiously because it appears to be an expansion.

Chairman Headland: I agree that it would likely be an expansion. If it passes we will find out. If there are adjustments, then future legislators are going to be looking at this. I'm comfortable with the bill. Is there anything else?

ROLL CALL VOTE:
11 YES 2 NO 1 ABSENT

Vice Chairman Grueneich will carry this bill.

Date: 3-6-19
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2360

House Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description:

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐

Motion Made By Rep. Mitskog Seconded By Rep. Eidson

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	X		Representative Eidson	X	
Vice Chairman Grueneich		X	Representative Mitskog	X	
Representative Blum	X				
Representative Dockter	X				
Representative Ertelt		X			
Representative Fisher	X				
Representative Hatlestad	X				
Representative Kading		X			
Representative Koppelman		X			
Representative Steiner		X			
Representative Toman		X			
Representative Trottier		X			

Total (Yes) 7 No 7

Absent 0

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Motion failed.

Date: 3-13-19
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2360

House Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: ______

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ ______

Motion Made By Rep Dockter Seconded By Rep. Eidson

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	X		Representative Eidson	X	
Vice Chairman Grueneich	X		Representative Mitskog	X	
Representative Blum	X				
Representative Dockter	X				
Representative Ertelt	X				
Representative Fisher	X				
Representative Hatlestad	X				
Representative Kading	A				
Representative Koppelman		X			
Representative Steiner	X				
Representative Toman		X			
Representative Trottier	X				

Total (Yes) 11 No 2

Absent 1

Floor Assignment Rep. Grueneich

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2360, as engrossed: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2360 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

SB 2360

FARM BUILDING PROPERTY TAX EXEMPTION HISTORY

Before 1918 the Constitution of North Dakota did not allow exemption from property taxes for buildings. In November 1918 the voters approved an amendment to what is now Section 5 of Article X of the Constitution of North Dakota, which allowed the Legislative Assembly to classify buildings as personal property and thereby exempt selected buildings from property taxes.

The first property tax exemption for agricultural buildings in North Dakota was enacted by passage of Senate Bill No. 44 (1919). That bill simply provided exemption from property taxes for "all structures and improvements on agricultural lands." The bill contained no definition of the terms "structures and improvements" or "agricultural lands." The farm building exemption is presently contained in North Dakota Century Code Section 57-02-08(15).

For a period of 50 years the farm building exemption changed very little, although a presumption was added that any parcel of property of fewer than 5 acres was not a farm. It appears that application of the exemption became more difficult as "nonfarmers" began moving to rural areas. A 1969-70 Legislative Council interim Finance and Taxation Committee report recommended an amendment to increase the statutory presumption of the acreage to qualify as a farm from 5 to 10 acres and to require that not less than 50 percent of total gross annual income of the farmer and the farmer's spouse must be derived from the farmland. The report states testimony indicated there was a problem in some areas when persons who were not farmers built houses within the city limits and claimed the property was exempt under the farm structure exemption. In 1971, the Legislative Assembly approved House Bill No. 1057, as recommended by the Legislative Council study, but deleted the requirement 50 percent of the farmer's income be derived from the farmland.

Senate Bill No. 2318 (1973) apparently was intended by the Legislative Assembly to restrict the application of the farm building exemption. This 1973 legislation introduced several new concepts such as application of income limitations, activities limitations, and retirement considerations. The bill included a statement of legislative intent that the exemption applied to a residence be strictly construed and interpreted to exempt only a residence situated on a farm occupied or used by a person who is a farmer. The bill defined the term "farm" as agricultural land containing a minimum of 10 acres which normally provides a farmer, who is actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, with not less than 50 percent of the person's annual net income. The bill defined the term "farmer" to mean an individual who normally devotes the major portion of the person's time to the activities of producing products of the soil, poultry, livestock, or dairy farming and who normally receives not less than 50 percent of the person's annual net income from these listed activities. The bill also defined the term "farmer" to include an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer the residence in which the person lives and for which the exemption is claimed.

House Bill No. 1542 (1981) further restricted the farm building exemption by defining income from farming activities and requiring a husband and wife residing in a residence claimed as exempt receive not less than 50 percent of combined net income from all sources from farming activities. The bill also allowed an assessor to require the occupant of a residence who is claiming the agricultural building exemption to file a written statement regarding the income qualifications of the applicant and spouse.

Senate Bill No. 2313 (1983) added the requirement the individual and spouse claiming the exemption could not qualify for the exemption if the individual and spouse had more than $20,000 of nonfarm income during each of the 3 preceding calendar years. This provision does not apply to an individual who is retired from farming and otherwise qualifies for the exemption. Senate Bill No. 2409 (1985) increased the annual nonfarm income limitation from $20,000 to $30,000 per year for each of the 3 preceding calendar years.

House Bill No. 1615 (November 1991 special legislative session) provided any structure or improvement located on platted land within the corporate limits of a city or any structure or improvement located on railroad operating property subject to assessment by the State Board of Equalization is not exempt as a farm structure.

House Bill No. 1280 (1997) replaced the requirement the farm must normally provide the farmer with 50 percent or more of annual net income with a provision that would disqualify the farmer from the farm residence exemption if the farmer receives more than 50 percent of annual net income from nonfarm income for 3 consecutive years. House Bill No. 1301 (1997) increased from $30,000 to $40,000 the limitation on nonfarm income earned during each of the 3 preceding calendar years which would disqualify the farmer from the farm residence exemption. This bill also provided a farmer operating a bed and breakfast facility would not be disqualified from the farm residence exemption because of income from operation of the bed and breakfast facility. House Bill No. 1202 (1997) provided "livestock," as used in the exemption, includes "nontraditional livestock."

1/28 SB 2360 #1 pg. 2

House Bill No. 1053 (1999) replaced the disqualification for earning 50 percent or more of annual net income from nonfarm income for 3 consecutive years with a requirement that income from farming must be 50 percent or more of annual net income during 1 of the 3 preceding years. The bill also allowed a beginning farmer to qualify for the exemption by excluding consideration of that person's 3 preceding calendar years of farm income. House Bill No. 1054 (1999) expanded the farm building exemption to include feedlots and buildings used primarily, rather than exclusively, for farming purposes. House Bill No. 1363 (1999) allowed addition of depreciation expenses from farming activities to net farm income for purposes of qualifying for the exemption.

House Bill No. 1517 (2005) expanded the exemption for farm structures to include a greenhouse or other building used primarily for growing horticultural or nursery products, including a structure used on no more than an occasional basis for a showroom for retail sale of horticultural or nursery products. A greenhouse or building used primarily for display and sale of grown horticultural or nursery products is not a farm building or improvement.

Senate Bill No. 2244 (2009) expanded the exemption for a farm residence to include a residence owned by the surviving spouse of a farmer. The exemption is available to the spouse of a deceased individual who at the time of death owned and occupied as a farmer the residence in which the surviving spouse lives. This exemption expires at the end of the 5th taxable year after the taxable year of death of the qualified spouse. The exemption applies for as long as the surviving spouse continuously occupies the residence.

Senate Bill No. 2344 (2017) excluded an individual growing medical marijuana from the definition of a "farmer" for purposes of qualifying for the farm residence exemption. The bill also excluded any structure or improvement used in processing medical marijuana from qualifying for the farm structure exemption.

RECENT FAILED LEGISLATION

Senate Bill No. 2339 (2015) would have expanded the definition of "farm buildings and improvements" for purposes of the farm structure exemption to include buildings used in agritourism-related activities.

Senate Bill No. 2197 (2013) would have repealed the farm residence exemption.

Senate Bill No. 2126 (2011) would have defined "nonfarm income," for purposes of the farm residence exemption, as income derived from active employment and would have excluded from the definition passive income derived from retirement accounts, social security payments, pensions or annuities, veterans' disability, military retirement payments, interest earnings on inheritances, and savings and investment accounts.

Senate Bill No. 2414 (2009) would have limited the farm residence exemption to the first $50,000 of the true and full valuation of a residence.

Senate Bill No. 2208 (2007) would have eliminated the 50 percent of net income from farming requirement for any year in which a disaster order issued by the Governor is in effect for the county.

Senate Bill No. 2242 (2005) would have eliminated the farm residence exemption for a residence owned by a corporation, limited liability company, limited liability partnership, or limited partnership.

Senate Bill No. 2357 (2005) would have eliminated the nonfarm income limitation that applies to the farm residence exemption.

House Bill No. 1209 (2005) would have increased from $40,000 to $55,000 the annual nonfarm income limitation for the 3 preceding calendar years, which would eliminate the exemption.

Senate Bill No. 2240 (2005) would have required claimants for a farm residence exemption to file an affidavit of qualification for the exemption. The claim would have authorized the Tax Commissioner to examine income tax returns of claimants and disclose to the assessor whether the claimant qualifies. A claimant who received an exemption to which the claimant was not entitled would have been subjected to payment of taxes and penalties and interest from the time the taxes should have been paid. A claimant of an exemption to which the claimant was not entitled, in circumstances showing an intentional misstatement of eligibility, would have been disqualified from the exemption for the 2 subsequent taxable years.

House Bill No. 1298 (2005) would have allowed partial eligibility for the farm residence exemption for a farmer whose annual net income from farming is less the 50 percent of the total annual net income. If the annual net income was 25 to 50 percent of total annual net income, the farmer would have been eligible for a reduction of taxable valuation of the residence equal to the percentage of the total annual net income from farming.

1/28 SB 2360 #1 pg. 3

have filed or will file a claim on Form 720 or Form 4136.

You may file a claim for refund for any quarter of your tax year for which you can claim $750 or more. This amount is the excise tax on all fuels used for a nontaxable use during that quarter or any prior quarter (for which no other claim has been filed) during the tax year.

If you cannot claim at least $750 at the end of a quarter, you carry the amount over to the next quarter of your tax year to determine if you can claim at least $750 for that quarter. If you cannot claim at least $750 at the end of the fourth quarter of your tax year, you must claim a credit on your income tax return using Form 4136. Only one claim can be filed for a quarter.

CAUTION *You cannot claim a refund for excise tax on gasoline and aviation gasoline used on a farm for farming purposes. You must claim a credit on your income tax return for the tax.*

How to file a quarterly claim. File the claim for refund by filling out Schedule 1 (Form 8849) and attaching it to Form 8849. Send it to the address shown in the instructions. If you file Form 720, you can use its Schedule C for your refund claims. See the Instructions for Form 720.

When to file a quarterly claim. You must file a quarterly claim by the last day of the first quarter following the last quarter included in the claim. If you do not file a timely refund claim for the fourth quarter of your tax year, you will have to claim a credit for that amount on your income tax return, as discussed earlier.

CAUTION *In most situations, the amount claimed as a credit or refund will be less than the amount of fuel tax paid, because the Leaking Underground Storage Tank (LUST) tax of $0.001 per gallon is generally not subject to credit or refund.*

Including the Credit or Refund in Income

Include any credit or refund of excise taxes on fuels in your gross income if you claimed the total cost of the fuel (including the excise taxes) as an expense deduction that reduced your income tax liability.

Which year you include a credit or refund in gross income depends on whether you use the cash or an accrual method of accounting.

Cash method. If you use the cash method and file a claim for refund, include the refund amount in gross income for the tax year in which you receive the refund. If you claim a credit on your income tax return, include the credit amount in gross income for the tax year in which you file Form 4136. If you file an amended return and claim a credit, include the credit amount in gross income for the tax year in which you receive the credit.

Example. Marucia Brown, a farmer who uses the cash method, filed her 2017 Form 1040 on March 3, 2018. On her Schedule F, she deducted the total cost of gasoline (including $110 of excise taxes) used on the farm for farming purposes. Then, on Form 4136, she claimed the $110 as a credit. Marucia reports the $110 as other income on line 8 of her 2018 Schedule F.

Accrual method. If you use an accrual method, include the amount of credit or refund in gross income for the tax year in which you used the fuels. It does not matter whether you filed for a quarterly refund or claimed the entire amount as a credit.

Example. Amy Johnson, a farmer who uses the accrual method, files her 2017 Form 1040 on April 15, 2018. On Schedule F, she deducts the total cost of gasoline (including $155 of excise taxes) she used on the farm for farming purposes during 2017. On Form 4136, Amy claims the $155 as a credit. She reports the $155 as other income on line 8 of her 2017 Schedule F.

15. Estimated Tax

Introduction

Estimated tax is the method used to pay tax on income that is not subject to withholding. See Pub. 505 for the general rules and requirements for paying estimated tax. If you are a qualified farmer, defined below, you are subject to the special rules covered in this chapter for paying estimated tax.

Topics

This chapter discusses:

- Special estimated tax rules for qualified farmers
- Estimated tax penalty

Useful Items

You may want to see:

Publication

- ❑ **505** Tax Withholding and Estimated Tax

Form (and Instructions)

- ❑ **1040** U.S. Individual Income Tax Return
- ❑ **1040-ES** Estimated Tax for Individuals
- ❑ **2210-F** Underpayment of Estimated Tax by Farmers and Fishermen

See chapter 16 for information about getting publications and forms.

Special Estimated Tax Rules for Qualified Farmers

Special rules apply to the payment of estimated tax by individuals who are qualified farmers. If you are not a qualified farmer as defined next, see Pub. 505 for the estimated tax rules that apply.

Qualified Farmer

An individual is a qualified farmer for 2018 if at least two-thirds of his or her gross income from all sources for 2017 or 2018 was from farming. See *Gross Income*, next, for information on how to figure your gross income from all sources and see *Gross Income From Farming*, later, for information on how to figure your gross income from farming. See also *Percentage From Farming*, later, for information on how to determine the percentage of your gross income from farming.

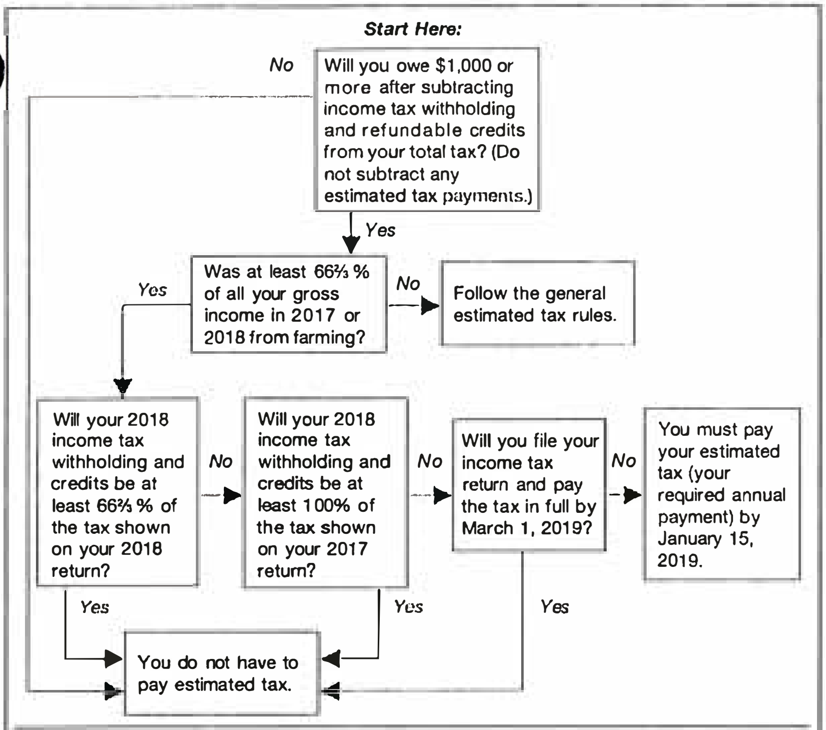
Gross Income

Gross income is all income you receive in the form of money, goods, property, and services that is not exempt from income tax. On a joint return, you must add your spouse's gross income to your gross income. To decide whether two-thirds of your gross income was from farming, use as your gross income the total of the following income (not loss) amounts from your tax return.

- Wages, salaries, tips, etc.
- Taxable interest.
- Ordinary dividends.
- Taxable refunds, credits, or offsets of state and local income taxes.
- Alimony.
- Gross business income from Schedule C (Form 1040).
- Gross business receipts from Schedule C-EZ (Form 1040).
- Capital gains from Schedule D (Form 1040). Losses are not netted against gains.
- Gains on sales of business property.
- Taxable IRA distributions, pensions, annuities, and social security benefits.
- Gross rental income from Schedule E (Form 1040).
- Gross royalty income from Schedule E (Form 1040).
- Taxable net income from an estate or trust reported on Schedule E (Form 1040).
- Income from a Real Estate Mortgage Investment Conduit reported on Schedule E (Form 1040).
- Gross farm rental income from Form 4835.
- Gross farm income from Schedule F (Form 1040).
- Your distributive share of gross income from a partnership, or limited liability company treated as a partnership, from Schedule K-1 (Form 1065).
- Your pro rata share of gross income from an S corporation, from Schedule K-1 (Form 1120S).

1/28 SB 2360 #1 pg.4

Figure 15-1. **Estimated Tax for Farmers**



Note. See *Special Rules for Qualified Farmers*, later, for a detailed description of the special estimated tax rules that apply to qualified farmers.

- Unemployment compensation.
- Other income not included with any of the items listed above.

Gross Income From Farming

Gross income from farming is income from cultivating the soil or raising agricultural commodities. It includes the following amounts.

- Income from operating a stock, dairy, poultry, bee, fruit, or truck farm.
- Income from a plantation, ranch, nursery, range, orchard, or oyster bed.
- Crop shares for the use of your land.
- Gains from sales of draft, breeding, dairy, or sporting livestock.

Gross income from farming is the total of the following amounts from your tax return.

- Gross farm income from Schedule F (Form 1040).
- crop share → Gross farm rental income from Form 4835.
- Gross farm income from Schedule E (Form 1040), Parts II and III.
- Gains from the sale of livestock used for draft, breeding, sport, or dairy purposes reported on Form 4797.

For more information about income from farming, see chapter 3.

CAUTION *Farm income does not include any of the following:*

- *Wages you receive as a farm employee,*
- *Income you receive from contract grain harvesting and hauling with workers and machines you furnish, and*
- *Gains you receive from the sale of farm land and depreciable farm equipment.*

Percentage From Farming

Figure your gross income from all sources, discussed earlier. Then figure your gross income from farming, discussed earlier. Divide your farm gross income by your total gross income to determine the percentage of gross income from farming.

Example 1. Jane Smith had the following total gross income and farm gross income amounts in 2018.

Gross Income

	Total	Farm
Taxable interest	$3,000	
Dividends	500	
Rental income (Sch E)	41,500	
Farm income (Sch F)	75,000	$75,000
Gain (Form 4797)	5,000	5,000
Total	$125,000	$80,000

Schedule D showed gain from the sale of dairy cows carried over from Form 4797 ($5,000) in addition to a loss from the sale of corporate stock ($2,000). However, that loss is not netted against the gain to figure Ms. Smith's total gross income or her gross farm income. Her gross farm income is 64% of her total gross income ($80,000 ÷ $125,000 = 0.64). Since Ms. Smith's gross farm income is less than two-thirds of her total gross income, she is not a qualified farmer and the general estimated tax rules apply.

Special Rules for Qualified Farmers

The following special estimated tax rules apply if you are a qualified farmer for 2018.

- You do not have to pay estimated tax if you file your 2018 tax return and pay all the tax due by March 1, 2019.
- You do not have to pay estimated tax if your 2018 income tax withholding (including any amount applied to your 2018 estimated tax from your 2017 return) will be at least 66⅔% (.6667) of the total tax shown on your 2018 tax return or 100% of the total tax shown on your 2017 return.
- If you must pay estimated tax, you are required to make only one estimated tax payment (your required annual payment) by January 15, 2019, using special rules to figure the amount of the payment. See Required Annual Payment next for details.

Figure 15-1 presents an overview of the special estimated tax rules that apply to qualified farmers.

Example 2. Assume the same fact as in *Example 1*. Ms. Smith's gross farm income is only 64% of her total income. Therefore, based on her 2018 income, she does not qualify to use the special estimated tax rules for qualified farmers. However, she does qualify if at least two-thirds of her 2017 gross income was from farming.

Example 3. Assume the same facts as in *Example 1* except that Ms. Smith's farm income from Schedule F was $90,000 instead of $75,000. This made her total gross income $140,000 ($3,000 + $500 + $41,500 + $90,000 + $5,000) and her farm gross income $95,000 ($90,000 + $5,000). She qualifies to use the special estimated tax rules for qualified farmers, since 67.9% (at least two-thirds) of her gross income is from farming ($95,000 ÷ $140,000 = .679).

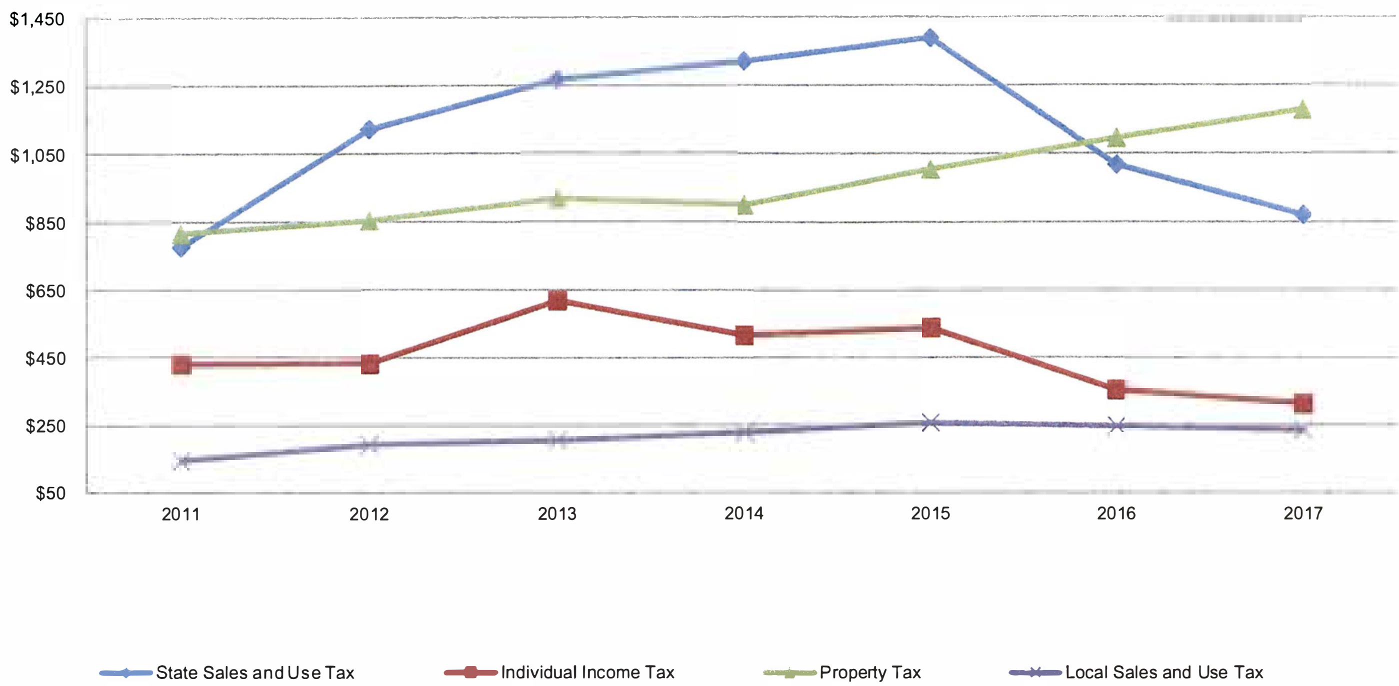
Required Annual Payment

If you are a qualified farmer and must pay estimated tax for 2018, use the worksheet on Form 1040-ES to figure the amount of your required annual payment. Apply the following special rules for qualified farmers to the worksheet.

- On line 12a, multiply line 11c by 66⅔% (.6667).
- On line 12b, enter 100% of the tax shown on your 2017 tax return regardless of the amount of your adjusted gross income. For this purpose, the "tax shown on your 2017 tax return" is the amount on line 63 of your 2017 return modified by certain adjustments. For more information, see chapter 2 of Pub. 505.

1/28 SB 2360 #1 pg.5

MAJOR SOURCES OF STATE/LOCAL REVENUE
(Amounts Shown in Millions)



Fiscal Year	State Sales and Use Tax	Individual Income Tax	Property Tax[1]	Local Sales and Use Tax[2]
2011	$775.1	$429.9	$816.2	$144.2
2012	$1,121.3	$432.2	$853.8	$191.8
2013	$1,267.0	$617.9	$918.7	$206.2
2014	$1,320.2	$516.1	$900.1	$228.8
2015	$1,389.0	$537.6	$1,005.1	$258.1
2016	$1,017.4	$355.5	$1,096.1	$248.9
2017	$872.1	$314.2	$1,177.9	$236.1

[1]Property taxes include the 12 percent state-paid credit for 2014 ($94.3 million), 2015 ($105.4 million), and 2016 ($116.3 million).
[2]Local sales tax amounts do not include city occupancy or city restaurant and lodging taxes.

1/28 SB 2360 #1 pg. 6

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Weekly Farm Economics

Grain Farm Income Outlook for 2019: Negative Incomes Ahead?

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Department of Agricultural and Consumer Economics
University of Illinois

January 15, 2019
***farmdoc daily* (9):7**

Recommended citation format: Schnitkey, G. "Grain Farm Income Outlook for 2019: Negative Incomes Ahead?." *farmdoc daily* (9):7, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, January 15, 2019.
Permalink

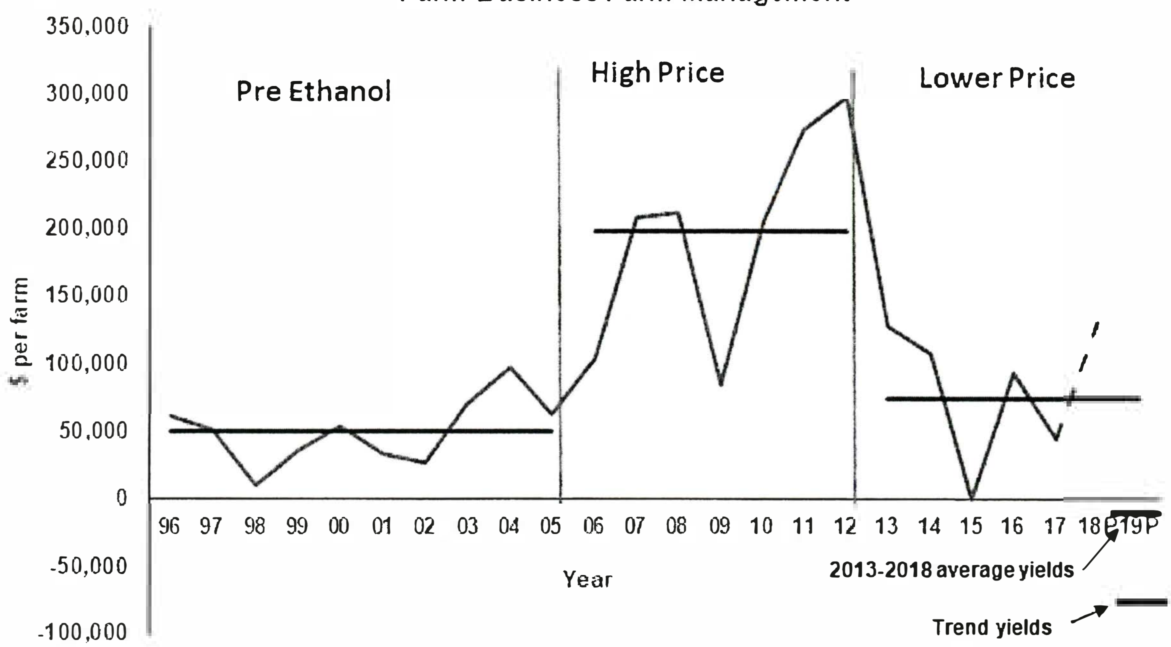
In 2018, many grain farms in Illinois will have incomes above $70,000 per farm, the average from 2013 to 2017. Incomes in 2019 could be negative on many farms. While scenarios exist that result in near average incomes, it seems best to plan for negative incomes on grain farms in 2019. Income from 2018 should be saved to cover potential losses in 2019.

Income in 2018

1/28 SB 2340 #1 pg. 7

Figure 1 shows average net incomes on grain farms enrolled in Illinois Farm Business Farm Management (FBFM) from 1996 to 2017. Projections also are shown for 2018 and 2019. As can be seen, income has varied over time, with three distinct periods. From 1996 to 2006, commodity prices were low relative to the later periods, and net farm income averaged slightly over $50,000 per farm. From 2008 through 2012, corn and soybean price were higher because of increasing use of corn in making ethanol, continuing growth in exports of soybeans, and shortfalls in productions in places around the world. During the 2006 to 2012 period, incomes averaged $198,000 per farm. Since 2012, commodity prices have been lower because of slowing growth in corn used in producing ethanol and high yields across many producing areas in the world. In 2018, concerns increased over whether soybean exports would continue to grow. From 2013 to 2017, farm incomes on grain farms averaged $75,000 per farm. In 2017, net income was lower than the 2013-2017 average at $46,000 per farm.

Figure 1. Net Farm Incomes on Illinois Grain Farms Enrolled in Illinois Farm Business Farm Management



Source: Illinois Farm Business Farm Management

Illinois FBFM has not summarized incomes for 2018; however, it is reasonable to expect 2018 incomes to be higher than the 2013-2017 average of $75,000 per farm. Three factors contribute to higher incomes:

1. Exceptional yields. The U.S. Department of Agriculture (USDA) is projecting record corn and soybean yields in Illinois (see *Crop Production*, USDA). The Illinois state corn yield in 2018 is projected at 210 bushels per acre, 9 bushels higher than the next highest yield of 201 bushels in 2017. The 2018 Illinois soybean yield is projected at 64 bushels per

1/28 SB 2360 #1 pg. 8

acre, 5 bushels higher than the next highest yield of 59 bushels set in 2016. These high yields will increase 2018 incomes (*farmdoc daily*, September 5, 2018).

2. Market Facilitation Program (MFP) payments. MFP is a Federal program providing partial compensation resulting from losses caused by recent trade disputes (see *farmdoc daily*, November 27, 2018, for more detail). MFP makes payments based on 2018 production with per bushel rates at $1.65 for soybeans, $.14 for wheat, and $.01 for corn. The $1.65 per bushel payment for soybeans adds significantly to 2018 incomes. WASDE current midpoint of the 2018 soybean price range is $8.60. Adding a $1.65 MFP payment to $8.60 results in an effective price for soybeans of $10.25, well above average price farmers have received for soybeans since 2014.
3. Opportunities to price 2018 production at higher prices. Before May of 2018, there were opportunities to price soybeans in the high $9 per bushel range, with some rare opportunities to price grain above $10 per bushel. Since the end of May, cash soybean prices have declined to the mid-$8 range, with some cash prices falling below $8 per bushel (see *farmdoc daily*, July 31, 2018, for a discussion of price declines). Many farmers priced a portion of production before May, resulting in a higher selling price then would occur if no pre-pricing occurred. It seems reasonable to expect about 30% of expected production to be priced at higher prices (see *farmdoc daily*, May 15, 2018, for a discussion or pre-harvest hedging related to corn).

As always, incomes will vary across farms because of yield variability. Some areas had poorer yield than other regions. Also, the amount of grain that was priced before May will impact returns across farms.

Income Outlook for 2019

Expectations are for much lower incomes in 2019 because of two factors:

1. Rising costs. Non-land costs of producing corn and soybeans will increase in 2019, led primarily by fertilizer price increases (see *farmdoc daily*, September 25, 2018). Anhydrous ammonia prices were over $60 per ton higher in the fall of 2018 as compared to the fall of 2017. Ammonia prices have continued to increase since the fall. Overall, the era of decreasing per acre costs appears to have ended (*farmdoc daily*, June 21, 2018).
2. Lower soybean prices. Soybean prices averaged in the high $9 per bushel range in 2016 and 2017. Expectations are for lower soybean prices in 2019. Current fall bids place soybean prices near $9 per bushel. It is possible for soybean prices to fall further below $9 per bushel if yields are at or above trend in either South America or the United States.

1/28 SB 2360 #1 pg. 9

To illustrate the potential for lower incomes, 2019 projections are made using a $3.60 per bushel corn price and $8.50 per bushel soybean price. Non-land costs are increased by $25 per acre for corn and $10 per acre for soybeans over 2018 levels. Cash rent levels are assumed to remain the same in 2019 as they were in 2018. Projections are made with $7 per acre of Price Loss Coverage (PLC) payments. Incomes projections are made at 1) trend yields and 2) above-average yields.

2019 Income Projections at Trend Yields

From 2013 to 2018, actual yields in Illinois have average 20 bushels per acre above trend for corn and 6.5 bushels above trend for soybeans (see *farmdoc daily*, December 11, 2018, and January 3, 2019). These higher yields raised incomes in recent years. A return to trend yields would result in lower profits.

At trend yields — 20 bushels per acre lower than in recent years for corn and 6.5 bushels lower for soybeans — 2019 average net income on Illinois grain farms is projected at -$55,000 per farm, a disaster level of income that would result in substantial reductions in working capital and severe erosions of financial position. Some farms would face financial stress. A -$55,000 would be a much lower income than occurring in the 1980s during the height of the farm financial crisis.

2019 Income Projections at Above-Average Yields

Higher yields like those experienced in recent years would result in average net income being -$3,000 per farm. This income would be slightly worse than the 2015 income (see Figure 1). At this income level, erosion of financial position would occur on most farms.

At this point, many scenarios could cause grain farm incomes to be very low. Scenarios are evaluated that would cause 2019 incomes to be near the $75,000 average level experienced from 2013-2017. The following three scenarios seem the most likely to occur:

1. Prices increase to $4.00 per bushel for corn and $9.50 per bushel for soybeans, with yields above trend like they have been in recent years. Prices at these levels are possible. For soybeans, a $9.50 price likely would require lower than expected yields in both Brazil or the United States, and some resolution to the trade dispute with China (see *farmdoc daily*, January 14, 2019).
2. A continuation of the Market Facilitation Program, with yields above trend. Continued MFP payments would add income. The Trump Administration has stated that MFP payments will not continue in 2019.

1-28 SB 2360 #1 pg. 10

3. A drought. Drought conditions someplace in the Midwest would increase prices. Given that farmers have purchased Revenue Protection (RP) crop insurance, yield shortfalls would be compensated through crop insurance payments

Summary

At this point, it seems likely that net farm incomes will be very low in 2019. Negative average incomes across Illinois grain farms are possible in 2019. As often happens in agriculture, conditions can change, resulting in a brighter outlook. Still, it seems prudent to plan for low and negative incomes on grain farms in 2019. Saving 2018 income and building working capital seems like a good strategy for combating potentially low income in 2019.

YouTube Video: Discussion and graphs associated with this article

2019 income projections

1/28 SB 2360 #2 pg. 1

Dotzenrod, Jim A.

From:	Dotzenrod, Jim A.
Sent:	Monday, January 28, 2019 8:53 AM
To:	Dotzenrod, Jim A.
Subject:	SB 2360 is about the farm residence exemption from property tax...

SB 2360 is about the farm residence exemption from property tax. This exemption is found in 57-02-08.
The definitions in the law and the way it fails to reflect the practices that farmers use today have been a matter of concern for some time. SB 2360 is an attempt to define and simplify the terms of this exemption and to recognize commonly used practices that under current law function to prevent many active full-time farmers from qualifying for this exemption.
The bill makes 3 specific changes to current law:

1. It changes the qualifying farm income test from 50% or more of net income to 66% or more of gross income. This definition was taken from the IRS guide on qualifying to file estimated taxes. The idea here was to find a clear definition of "Qualified Farmer" from some unbiased 3rd party. We do many things in tax law to conform with federal definitions, dates, deadlines, and other terms and this seemed to be a good way to keep this clear, simple, and consistent with the IRS.
2. The bill changes the time allowed to "look back" from 3 years to 2 years. This is the IRS standard and was changed to be consistent.
3. The second income test was deleted. There is no separate test of off-farm income in the IRS definition of "Qualified Farmer", so to be consistent, that was taken out.

The objectives of SB 2360 are to allow the exemption to function as it was originally intended; that is full time farmers, using the normal, common practices that are part of farming and agriculture today to meet the requirements of the law to qualify for this exemption. In addition the bill seeks to make the law clear, simple, and consistent with IRS standards, thus easing the burden on counties to enforce, understand, and explain to the taxpayers they deal with.

1/28 SB 2360 #3 pg. 1

North Dakota
Grain Growers Association
You Raise. We Represent. www.ndgga.com

North Dakota Grain Growers Association Testimony on SB 2360 Senate Industry, Business and Labor Committee January 28, 2019

Chairman Cook, members of the Senate Finance and Tax Committee, for the record my name is Dan Wogsland, Executive Director of the North Dakota Grain Growers Association (NDGGA). Through our contracts with the North Dakota Wheat Commission and the North Dakota Barley Council NDGGA engages in domestic policy issues on the state and federal levels on behalf of North Dakota wheat and barley farmers. I appear before you today on behalf of NDGGA in support of SB 2360.

Chairman Cook, members of the Senate Finance and Tax Committee, all of you recognize there are issues with North Dakota's Farm Home Tax Exemption as it is today. Administrative issues, compliance issues there are a plethora of issues as the exemption stands today. SB 2360 seeks to help to clarify some of those issues by eliminating the off-farm income threshold and instituting in its place the definition of a farmer from the federal tax code for use in determining the Farm Home Tax Exemption. This is a concept that NDGGA can support as it would seem to our Association a more reasonable approach in accurately determining who should quality for the exemption.

As all of the Committee realizes nothing is perfect; there will be "winners and losers" in determining qualifying farm homes under SB 2360. That said, using the federal definition of a "farmer" for the Farm Home Tax Exemption would seem to provide a long-term solution to the determination problems that exist today. Something needs to be done and SB 2360 seems to move the North Dakota tax code in the right direction.

Therefore the North Dakota Grain Growers Association would respectfully request the Senate Finance and Tax Committee give SB 2360 a Do Pass recommendation.

1/28 SB 2360 #4 pg. 1

North Dakota Soybean Growers Association

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SB 2360 Testimony

Good Morning - Chairman Cook and Committee members.

My name is Scott Rising and I'm representing the ND Soybean Growers Association.

The North Dakota Soybean Growers Association is urging you to give SB2360 a DO PASS recommendation.

Mr. Chairman, we find this proposal in front of us because there is a portion of the population in North Dakota that perceive that the farm home exemption is unfair, because exempt farmers and ranchers do not pay their fair share. We disagree. More on this in a minute.

The North Dakota Century Code provides for a large number of both property tax exemptions and business tax credits. The rational for exemptions and credits is to acknowledge a special consideration for entities or to encourage behaviors leading to desirable economic outcomes. A short list of some of the exemptions are:

57-02-08. Property exempt from taxation.
All property described in this section to the extent herein limited shall be exempt from taxation:

1. All property owned exclusively by the United States . . .
2. All property owned by this state . . .
3. All property belonging to any political subdivision . . .
4. Property of Indians if the title . . .
5. All lands used exclusively for burying grounds or cemeteries.
6. All property belonging to schools, . . .
7. Repealed
8. All buildings belonging to institutions of public charity, . . .
9. a. All buildings owned by any religious . . . and b.
10. Property of an agricultural fair association . . .
11. Property owned by lodges, chapters, . . .
12. Repealed
13. All land used as a public park . . .
14. The armory, and land . . .
15. All farm structures . . .
16. Property now owned, . . . promoting athletic and educational needs . . .

and approximately 23 more.

Mr. Chairman let me take us back to the fairness question. Attached is a spreadsheet that provide information with my best estimate of the average ad valorem property tax paid by farmers in each county now. The spreadsheet tallies each county's rural and city agricultural tax paid in 2017. Then it divides the tally by the total acers and yields an average tax per acre. Multiplying the average per acre by the average farm acreage yields the average tax paid per farm, by county, before any additional tax beyond the ad valorem taxes are levied. The averages range from $2500 to beyond $15,000 per farm.

1/28 SB 2360 # 4 pg. 2

The first issue of fairness, I believe, assumes that other tax payers' situations are similar to our own. It is not true. Commodity entities are different than most other business or personal endeavors.

Most personal work endeavors are rooted in the exchange of labor for an agreed upon compensation. Most commercial business endeavors offer goods and/or services for a competitive price, that proprietors have a hand in setting. Under most circumstances, commodity endeavors accept what the buyer is willing to pay, delivered.

A second element that plays into the fairness misconception, I believe, is that because agricultural producers average gross incomes are large compared to the average citizen's gross income, very few people understand that in many of the years producer net incomes are relatively modest.

There is more. The people of North Dakota have limited business models available to today's farmers. The standard corporate business model available commercial businesses in our state is off limits to farmers, denying farmers a successful organizational structure over time and a critical capital source for operations or expansions. We are not similarly situated.

Generally, Usually, Normally, services are much less in rural areas. People have septic systems; wait for roads to be graded and plowed or are detoured because of excess water; emergency service response times are longer; home insurance rates are higher; etc. Again, we are not similarly situated.

Mr. Chairman, and Committee Members, we believe that SB2360, with its positive modifications to the farm home exemption, encourages our state's farmers to live at their work stations. It continues a long tradition of yielding citizens that learn to depend on themselves and their neighbors to get necessary things done that are under their control.

Most importantly, the Farm Home Exemption ENCOURAGES people to live in rural North Dakota. It would be a State Policy Disaster to incentivize depopulating the "country" of North Dakota.

SB2360's use of "gross" incomes makes good sense in a business that relies more on quantity of production than tight supply markets. In fact, tight supply markets that advantage individual producers rarely occur unless a disaster occurs to seriously disadvantage other producers.

SB2360 also removes the $40,000 "intuitive penalty" of the statute as well. Why in the world would anyone want to seek to limit the working and contributing spirit of able-bodied people, or example of that for others, on a farm or elsewhere?

Please give SB2360 a DO PASS.

Scott Rising,
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County	Rural Agricultural Tax Paid [1]	City Agricultural Tax Paid [1]	Total Agricultural Tax Paid [1]	Total County Ag Acres [1]	Avg Taxable Value/Acre [1]	Avg AVT Paid/ Acre	Avg Farm Acres [2]	Number of Farms [2]	Avg AVT Paid per Farm	County Population [3]	House-hold Number [3]
ADAMS	$2,337,029	$3,658	$2,340,687	606,502	$18	$3.86	1,534	392	$5,920	2,305	1030
BARNES	$7,530,780	$33,953	$7,564,734	917,089	$40	$8.25	1,096	855	$9,041	10,926	5070
BENSON	$4,678,042	$8,065	$4,686,107	778,218	$23	$6.02	1,425	563	$8,581	6,739	2257
BILLINGS	$507,398	$0	$507,398	363,934	$31	$1.39	3,666	197	$5,111	934	405
BOTTINEAU	$5,273,419	$4,598	$5,278,017	1,021,065	$27	$5.17	1,042	863	$5,386	6,579	3047
BOWMAN	$1,685,908	$8,334	$1,694,242	667,689	$17	$2.54	2,099	348	$5,326	3,241	1404
BURKE	$2,457,001	$6,057	$2,463,058	652,684	$22	$3.77	1,219	488	$4,600	2,198	1001
BURLEIGH	$2,649,759	$14,604	$2,664,364	1,009,925	$19	$2.64	938	1,014	$2,475	94,487	38005
CASS	$10,004,634	$243,659	$10,248,293	1,035,892	$55	$9.89	1,144	968	$11,318	175,249	70841
CAVALIER	$7,304,789	$345,299	$7,650,088	916,455	$42	$8.35	1,410	667	$11,770	3,827	1788
DICKEY	$5,476,329	$8,093	$5,484,422	701,896	$39	$7.81	1,166	543	$9,111	5,064	2192
DIVIDE	$2,934,625	$3,255	$2,937,880	780,481	$22	$3.76	1,250	452	$4,705	2,413	1059
DUNN	$1,688,987	$422	$1,689,408	997,586	$13	$1.69	1,642	628	$2,781	4,366	1548
EDDY	$1,794,989	$1,389	$1,796,378	371,966	$25	$4.83	1,196	331	$5,776	2,358	1043
EMMONS	$3,827,610	$1,263	$3,828,874	927,573	$26	$4.13	1,222	609	$5,044	3,346	1520
FOSTER	$3,219,217	$442	$3,219,659	397,773	$37	$8.09	1,206	310	$9,762	3,303	1500
GOLDEN VALLEY	$931,201	$923	$932,124	506,500	$15	$1.84	2,241	251	$4,124	1,817	836
GRAND FORKS	$7,676,223	$39,600	$7,715,822	855,627	$44	$9.02	842	970	$7,593	71,083	28991
GRANT	$3,395,880	$21,793	$3,417,674	1,011,854	$17	$3.38	2,067	508	$6,982	2,377	1108
GRIGGS	$2,688,238	$416	$2,688,655	443,083	$32	$6.07	977	456	$5,929	2,277	1045
HETTINGER	$3,705,039	$138	$3,705,177	705,251	$27	$5.25	1,449	494	$7,613	2,629	1109
KIDDER	$2,167,564	$904	$2,168,468	822,184	$15	$2.64	1,396	559	$3,682	2,414	1083
LAMOURE	$6,545,551	$5,343	$6,550,894	717,331	$46	$9.13	1,131	642	$10,329	4,111	1810
LOGAN	$2,408,221	$3,372	$2,411,594	612,322	$21	$3.94	1,508	379	$5,939	1,941	878
MCHENRY	$4,177,981	$13,415	$4,191,396	1,126,729	$21	$3.72	1,165	911	$4,334	5,963	2614
MCINTOSH	$2,961,418	$4,178	$2,965,596	600,842	$24	$4.94	1,252	471	$6,180	2,656	1303
MCKENZIE	$1,395,177	$4,223	$1,399,400	1,050,696	$14	$1.33	1,854	574	$2,469	12,621	3617
MCLEAN	$6,719,347	$4,102	$6,723,449	1,138,101	$34	$5.91	1,282	868	$7,574	9,729	4292
MERCER	$1,977,973	$0	$1,977,973	574,765	$21	$3.44	1,192	422	$4,102	8,694	3675
MORTON	$3,285,124	$8,913	$3,294,037	1,159,298	$17	$2.84	1,375	887	$3,907	30,809	12673
MOUNTRAIL	$3,185,639	$16,727	$3,202,366	1,066,809	$21	$3.00	1,438	670	$4,317	10,242	3161
NELSON	$3,471,505	$14,033	$3,485,538	614,109	$28	$5.68	929	603	$5,273	2,960	1517
19	$1,406,553	$0	$1,406,553	449,632	$28	$3.13	1,360	290	$4,254	1,870	760
PEMBINA	$7,725,362	$11,545	$7,736,906	666,601	$59	$11.61	1,185	584	$13,754	7,069	3273
PIERCE	$3,403,403	$5,257	$3,408,659	637,520	$28	$5.35	1,148	521	$6,138	4,267	2032
RAMSEY	$4,465,043	$11,152	$4,476,195	724,146	$30	$6.18	1,219	573	$7,535	11,547	5004
RANSOM	$3,462,266	$8,501	$3,470,768	488,731	$36	$7.10	915	548	$6,498	5,404	2350
RENVILLE	$3,210,873	$1,658	$3,212,530	534,804	$34	$6.01	1,645	304	$9,881	2,550	1011

Leg 28 SB 2360 #4 pg.3

County	Rural Agricultural Tax Paid [1]	City Agricultural Tax Paid [1]	Total Agricultural Tax Paid [1]	Total County Ag Acres [1]	Avg Taxable Value/Acre	Avg AVT Paid/ Acre	Avg Farm Acres [2]	Number of Farms [2]	Avg AVT Paid per Farm	County Population [3]	House-hold Number [3]
RICHLAND	$10,916,910	$36,264	$10,953,175	854,406	$51	$12.82	1,017	854	$13,038	16,353	6677
ROLETTE	$2,752,248	$5,895	$2,758,143	482,724	$28	$5.71	823	649	$4,702	14,659	4786
SARGENT	$4,888,463	$20,643	$4,909,106	520,921	$45	$9.42	955	537	$9,000	3,890	1775
SHERIDAN	$1,872,890	$127,670	$2,000,560	550,916	$23	$3.63	1,388	370	$5,040	1,322	686
SIOUX	$760,415	$279	$760,694	375,595	$11	$2.03	3,256	176	$6,594	4,469	1101
SLOPE	$1,301,425	$2,879	$1,304,304	611,395	$16	$2.13	3,051	221	$6,509	763	306
STARK	$3,478,670	$0	$3,478,670	817,849	$21	$4.25	991	837	$4,215	31,199	11570
STEELE	$3,972,750	$45,972	$4,018,723	445,749	$47	$9.02	1,200	355	$10,819	1,962	943
STUTSMAN	$8,536,692	$5,465	$8,542,156	0	?	#DIV/0!	1,267	1,028	#DIV/0!	21,128	9146
TOWNER	$4,278,328	$512	$4,278,840	641,346	$36	$6.67	1,220	529	$8,139	2,263	982
TRAILL	$7,086,226	$15,454	$7,101,681	530,819	$59	$13.38	1,170	468	$15,653	8,030	3310
WALSH	$9,318,788	$38,376	$9,357,165	789,583	$46	$11.85	834	962	$9,884	10,904	4841
WARD	$7,459,311	$44,332	$7,503,643	1,146,183	$31	$6.55	1,117	961	$7,313	70,210	26772
WELLS	$5,580,290	$7,190	$5,587,480	781,448	$36	$7.15	1,359	543	$9,717	4,098	2026
WILLIAMS	$3,452,145	$14,373	$3,466,518	1,223,190	$20	$2.83	1,403	758	$3,976	34,337	12390
Totals	$219,391,647	$1,224,593	$220,616,240	38,425,787				30,961		757,952	

1. 2017 ND Tax Department 2. 2012 USDA Census of Agriculture. 3. ND Denographics, ND Dept Commerce (2016)

1/28 SB 2360 #4 pg. 4

2/13 SB 2360 # 1 pg.1

19.1117.01001
Title.

Prepared by the Legislative Council staff for
Senator Dotzenrod
January 30, 2019

PROPOSED AMENDMENTS TO SENATE BILL NO. 2360

Page 2, line 24, replace "federal taxable" with "gross"

Page 2, line 24, replace "computed" with "defined"

Page 2, line 26, remove "federal"

Page 2, line 26, overstrike "taxable" and insert immediately thereafter "gross"

Page 2, line 28, remove "cultivating the soil or raising agricultural"

Page 2, line 29, remove "commodities. The term includes"

Page 2, line 29, overstrike "the following"

Page 2, line 29, remove "amounts"

Page 2, line 29, overstrike the colon

Page 2, line 30, overstrike "(a)"

Page 3, line 1, remove "Income from operating a stock, dairy,"

Page 3, line 2, remove "poultry, bee, fruit, or truck farm"

Page 3, line 2, overstrike the period

Page 3, line 3, overstrike "(b)"

Page 3, line 4, remove "Income from a plantation, ranch, nursery,"

Page 3, line 5, remove "range, or orchard"

Page 3, line 5, overstrike the period

Page 3, line 6, overstrike "(c)"

Page 3, line 7, remove "Crop shares for the use of the"

Page 3, line 8, replace "farmer's land" with "farming as defined for purposes of determining if an individual is a farmer eligible to use the special estimated income tax payment rules for farmers under section 6654 of the federal Internal Revenue Code [26 U.S.C. 6654]"

Page 3, remove line 9

Page 3, line 31, replace "2018" with "2019"

Renumber accordingly

19.1117.01001

2/13 SB 2360 # 2 pg. 1

Sixty-sixth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2360

Introduced by

Senators Dotzenrod, Erbele, Wanzek

Representatives Holman, J. Nelson

A BILL for an Act to amend and reenact subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to the calculation of income for purposes of the farm residence property tax exemption; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

b. It is the intent of the legislative assembly that this exemption as applied to a residence must be strictly construed and interpreted to exempt only a residence that is situated on a farm and which is occupied or used by a person who is a farmer and that the exemption may not be applied to property which is occupied or used by a person who is not a farmer. For purposes of this subdivision:

(1) "Farm" means a single tract or contiguous tracts of agricultural land containing a minimum of ten acres [4.05 hectares] and for which the farmer, actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, has ~~received~~ annual ~~net~~gross income from farming activities which is ~~fifty~~sixty-six percent or more of annual ~~net~~gross income, including ~~net~~gross income of a spouse if married, during any of the ~~three~~two preceding calendar years.

(2) "Farmer" means an individual who normally devotes the major portion of time to the activities of producing products of the soil, with the exception of marijuana grown under chapter 19-24.1; poultry; livestock; or dairy farming in such products' unmanufactured state and has received annual ~~net~~gross income from farming activities which is ~~fifty~~sixty-six percent or more of

2/13 SB 2360 #2 pg. 2

annual ~~net~~gross income, including ~~net~~gross income of a spouse if married, during any of the ~~three~~two preceding calendar years. For purposes of this paragraph, "farmer" includes a:

(a) "Beginning farmer", which means an individual who has begun occupancy and operation of a farm within the ~~three~~two preceding calendar years; who normally devotes the major portion of time to the activities of producing products of the soil, poultry, livestock, or dairy farming in such products' unmanufactured state; and who does not have a history of farm income from farm operation for each of the ~~three~~two preceding calendar years.

(b) "Retired farmer", which means an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer the residence in which the person lives and for which the exemption is claimed.

(c) "Surviving spouse of a farmer", which means the surviving spouse of an individual who is deceased, who at the time of death owned and occupied as a farmer the residence in which the surviving spouse lives and for which the exemption is claimed. The exemption under this subparagraph expires at the end of the fifth taxable year after the taxable year of death of an individual who at the time of death was an active farmer. The exemption under this subparagraph applies for as long as the residence is continuously occupied by the surviving spouse of an individual who at the time of death was a retired farmer.

(3) "Gross income" means ~~federal taxable~~gross income as ~~computed~~defined under the federal Internal Revenue Code.

(4) "~~Net~~Gross income from farming activities" means ~~federal taxable~~gross income from ~~those activities as computed for income tax purposes pursuant to chapter 57-38 adjusted to include~~ ~~cultivating the soil or raising agricultural commodities. The term includes the following amounts:~~

~~(a)~~ ~~The difference between gross sales price less expenses of sale and the amount reported for sales of agricultural products for which the~~

2/13 SB 2360 #2 pg. 3

~~farmer reported a capital gain~~ ~~Income from operating a stock, dairy, poultry, bee, fruit, or truck farm.~~

~~(b) Interest expenses from farming activities which have been deducted in computing taxable income~~ ~~Income from a plantation, ranch, nursery, range, or orchard.~~

~~(c) Depreciation expenses from farming activities which have been deducted in computing taxable income~~ ~~Crop shares for the use of the farmer's land~~farming as defined for purposes of determining if an individual is a farmer eligible to use the special estimated income tax payment rules for farmers under section 6654 of the federal Internal Revenue Code [26 U.S.C. 6654].

~~(d) Gains from sales of draft, breeding, dairy, or sporting livestock.~~

(4) When exemption is claimed under this subdivision for a residence, the assessor may require that the occupant of the residence who it is claimed is a farmer provide to the assessor for the year or years specified by the assessor a written statement in which it is stated that ~~fifty~~sixty-six percent or more of the ~~net~~gross income of that occupant, and spouse if married and both spouses occupy the residence, was, or was not, ~~net~~gross income from farming activities.

(5) ~~In addition to any of the provisions of this subsection or any other provision of law, a residence situated on agricultural land is not exempt for the year if it is occupied by an individual engaged in farming who had nonfarm income, including that of a spouse if married, of more than forty thousand dollars during each of the three preceding calendar years. This paragraph does not apply to a retired farmer or a beginning farmer as defined in paragraph 2.~~

~~(6)~~ For purposes of this section, "livestock" includes "nontraditional livestock" as defined in section 36-01-00.1.

~~(7)~~(6) A farmer operating a bed and breakfast facility in the farm residence occupied by that farmer is entitled to the exemption under this section for that residence if the farmer and the residence would qualify for exemption

2/13 SB 2360 #2 pg. 4

under this section except for the use of the residence as a bed and breakfast facility.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable events beginning after December 31, ~~2018~~2019.

FARM BUILDING PROPERTY TAX EXEMPTION HISTORY

#1
SB 2360
3-6-19
p. 1

Before 1918 the Constitution of North Dakota did not allow exemption from property taxes for buildings. In November 1918 the voters approved an amendment to what is now Section 5 of Article X of the Constitution of North Dakota, which allowed the Legislative Assembly to classify buildings as personal property and thereby exempt selected buildings from property taxes.

The first property tax exemption for agricultural buildings in North Dakota was enacted by passage of Senate Bill No. 44 (1919). That bill simply provided exemption from property taxes for "all structures and improvements on agricultural lands." The bill contained no definition of the terms "structures and improvements" or "agricultural lands." The farm building exemption is presently contained in North Dakota Century Code Section 57-02-08(15).

For a period of 50 years the farm building exemption changed very little, although a presumption was added that any parcel of property of fewer than 5 acres was not a farm. It appears that application of the exemption became more difficult as "nonfarmers" began moving to rural areas. A 1969-70 Legislative Council interim Finance and Taxation Committee report recommended an amendment to increase the statutory presumption of the acreage to qualify as a farm from 5 to 10 acres and to require that not less than 50 percent of total gross annual income of the farmer and the farmer's spouse must be derived from the farmland. The report states testimony indicated there was a problem in some areas when persons who were not farmers built houses within the city limits and claimed the property was exempt under the farm structure exemption. In 1971, the Legislative Assembly approved House Bill No. 1057, as recommended by the Legislative Council study, but deleted the requirement 50 percent of the farmer's income be derived from the farmland.

Senate Bill No. 2318 (1973) apparently was intended by the Legislative Assembly to restrict the application of the farm building exemption. This 1973 legislation introduced several new concepts such as application of income limitations, activities limitations, and retirement considerations. The bill included a statement of legislative intent that the exemption applied to a residence be strictly construed and interpreted to exempt only a residence situated on a farm occupied or used by a person who is a farmer. The bill defined the term "farm" as agricultural land containing a minimum of 10 acres which normally provides a farmer, who is actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, with not less than 50 percent of the person's annual net income. The bill defined the term "farmer" to mean an individual who normally devotes the major portion of the person's time to the activities of producing products of the soil, poultry, livestock, or dairy farming and who normally receives not less than 50 percent of the person's annual net income from these listed activities. The bill also defined the term "farmer" to include an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer the residence in which the person lives and for which the exemption is claimed.

House Bill No. 1542 (1981) further restricted the farm building exemption by defining income from farming activities and requiring a husband and wife residing in a residence claimed as exempt receive not less than 50 percent of combined net income from all sources from farming activities. The bill also allowed an assessor to require the occupant of a residence who is claiming the agricultural building exemption to file a written statement regarding the income qualifications of the applicant and spouse.

Senate Bill No. 2313 (1983) added the requirement the individual and spouse claiming the exemption could not qualify for the exemption if the individual and spouse had more than $20,000 of nonfarm income during each of the 3 preceding calendar years. This provision does not apply to an individual who is retired from farming and otherwise qualifies for the exemption. Senate Bill No. 2409 (1985) increased the annual nonfarm income limitation from $20,000 to $30,000 per year for each of the 3 preceding calendar years.

House Bill No. 1615 (November 1991 special legislative session) provided any structure or improvement located on platted land within the corporate limits of a city or any structure or improvement located on railroad operating property subject to assessment by the State Board of Equalization is not exempt as a farm structure.

House Bill No. 1280 (1997) replaced the requirement the farm must normally provide the farmer with 50 percent or more of annual net income with a provision that would disqualify the farmer from the farm residence exemption if the farmer receives more than 50 percent of annual net income from nonfarm income for 3 consecutive years. House Bill No. 1301 (1997) increased from $30,000 to $40,000 the limitation on nonfarm income earned during each of the 3 preceding calendar years which would disqualify the farmer from the farm residence exemption. This bill also provided a farmer operating a bed and breakfast facility would not be disqualified from the farm residence exemption because of income from operation of the bed and breakfast facility. House Bill No. 1202 (1997) provided "livestock," as used in the exemption, includes "nontraditional livestock."

#1
SB 2360
3-6-19
p. 2

House Bill No. 1053 (1999) replaced the disqualification for earning 50 percent or more of annual net income from nonfarm income for 3 consecutive years with a requirement that income from farming must be 50 percent or more of annual net income during 1 of the 3 preceding years. The bill also allowed a beginning farmer to qualify for the exemption by excluding consideration of that person's 3 preceding calendar years of farm income. House Bill No. 1054 (1999) expanded the farm building exemption to include feedlots and buildings used primarily, rather than exclusively, for farming purposes. House Bill No. 1363 (1999) allowed addition of depreciation expenses from farming activities to net farm income for purposes of qualifying for the exemption.

House Bill No. 1517 (2005) expanded the exemption for farm structures to include a greenhouse or other building used primarily for growing horticultural or nursery products, including a structure used on no more than an occasional basis for a showroom for retail sale of horticultural or nursery products. A greenhouse or building used primarily for display and sale of grown horticultural or nursery products is not a farm building or improvement.

Senate Bill No. 2244 (2009) expanded the exemption for a farm residence to include a residence owned by the surviving spouse of a farmer. The exemption is available to the spouse of a deceased individual who at the time of death owned and occupied as a farmer the residence in which the surviving spouse lives. This exemption expires at the end of the 5th taxable year after the taxable year of death of the qualified spouse. The exemption applies for as long as the surviving spouse continuously occupies the residence.

Senate Bill No. 2344 (2017) excluded an individual growing medical marijuana from the definition of a "farmer" for purposes of qualifying for the farm residence exemption. The bill also excluded any structure or improvement used in processing medical marijuana from qualifying for the farm structure exemption.

RECENT FAILED LEGISLATION

Senate Bill No. 2339 (2015) would have expanded the definition of "farm buildings and improvements" for purposes of the farm structure exemption to include buildings used in agritourism-related activities.

Senate Bill No. 2197 (2013) would have repealed the farm residence exemption.

Senate Bill No. 2126 (2011) would have defined "nonfarm income," for purposes of the farm residence exemption, as income derived from active employment and would have excluded from the definition passive income derived from retirement accounts, social security payments, pensions or annuities, veterans' disability, military retirement payments, interest earnings on inheritances, and savings and investment accounts.

Senate Bill No. 2414 (2009) would have limited the farm residence exemption to the first $50,000 of the true and full valuation of a residence.

Senate Bill No. 2208 (2007) would have eliminated the 50 percent of net income from farming requirement for any year in which a disaster order issued by the Governor is in effect for the county.

Senate Bill No. 2242 (2005) would have eliminated the farm residence exemption for a residence owned by a corporation, limited liability company, limited liability partnership, or limited partnership.

Senate Bill No. 2357 (2005) would have eliminated the nonfarm income limitation that applies to the farm residence exemption.

House Bill No. 1209 (2005) would have increased from $40,000 to $55,000 the annual nonfarm income limitation for the 3 preceding calendar years, which would eliminate the exemption.

Senate Bill No. 2240 (2005) would have required claimants for a farm residence exemption to file an affidavit of qualification for the exemption. The claim would have authorized the Tax Commissioner to examine income tax returns of claimants and disclose to the assessor whether the claimant qualifies. A claimant who received an exemption to which the claimant was not entitled would have been subjected to payment of taxes and penalties and interest from the time the taxes should have been paid. A claimant of an exemption to which the claimant was not entitled, in circumstances showing an intentional misstatement of eligibility, would have been disqualified from the exemption for the 2 subsequent taxable years.

House Bill No. 1298 (2005) would have allowed partial eligibility for the farm residence exemption for a farmer whose annual net income from farming is less the 50 percent of the total annual net income. If the annual net income is 25 to 50 percent of total annual net income, the farmer would have been eligible for a reduction of taxable valuation of the residence equal to the percentage of the total annual net income from farming.

#1
SB 2360
3-6-19
p.3

have filed or will file a claim on Form 720 or Form 4136.

You may file a claim for refund for any quarter of your tax year for which you can claim $750 or more. This amount is the excise tax on all fuels used for a nontaxable use during that quarter or any prior quarter (for which no other claim has been filed) during the tax year.

If you cannot claim at least $750 at the end of a quarter, you carry the amount over to the next quarter of your tax year to determine if you can claim at least $750 for that quarter. If you cannot claim at least $750 at the end of the fourth quarter of your tax year, you must claim a credit on your income tax return using Form 4136. Only one claim can be filed for a quarter.

CAUTION *You cannot claim a refund for excise tax on gasoline and aviation gasoline used on a farm for farming purposes. You must claim a credit on your income tax return for the tax.*

How to file a quarterly claim. File the claim for refund by filling out Schedule 1 (Form 8849) and attaching it to Form 8849. Send it to the address shown in the instructions. If you file Form 720, you can use its Schedule C for your refund claims. See the Instructions for Form 720.

When to file a quarterly claim. You must file a quarterly claim by the last day of the first quarter following the last quarter included in the claim. If you do not file a timely refund claim for the fourth quarter of your tax year, you will have to claim a credit for that amount on your income tax return, as discussed earlier.

CAUTION *In most situations, the amount claimed as a credit or refund will be less than the amount of fuel tax paid, because the Leaking Underground Storage Tank (LUST) tax of $0.001 per gallon is generally not subject to credit or refund.*

Including the Credit or Refund in Income

Include any credit or refund of excise taxes on fuels in your gross income if you claimed the total cost of the fuel (including the excise taxes) as an expense deduction that reduced your income tax liability.

Which year you include a credit or refund in gross income depends on whether you use the cash or an accrual method of accounting.

Cash method. If you use the cash method and file a claim for refund, include the refund amount in gross income for the tax year in which you receive the refund. If you claim a credit on your income tax return, include the credit amount in gross income for the tax year in which you file Form 4136. If you file an amended return and claim a credit, include the credit amount in gross income for the tax year in which you receive the credit.

Example. Marucia Brown, a farmer who uses the cash method, filed her 2017 Form 1040 on March 3, 2018. On her Schedule F, she deducted the total cost of gasoline (including $110 of excise taxes) used on the farm for farming purposes. Then, on Form 4136, she claimed the $110 as a credit. Marucia reports the $110 as other income on line 8 of her 2018 Schedule F.

Accrual method. If you use an accrual method, include the amount of credit or refund in gross income for the tax year in which you used the fuels. It does not matter whether you filed for a quarterly refund or claimed the entire amount as a credit.

Example. Amy Johnson, a farmer who uses the accrual method, files her 2017 Form 1040 on April 15, 2018. On Schedule F, she deducts the total cost of gasoline (including $155 of excise taxes) she used on the farm for farming purposes during 2017. On Form 4136, Amy claims the $155 as a credit. She reports the $155 as other income on line 8 of her 2017 Schedule F.

15.

Estimated Tax

Introduction

Estimated tax is the method used to pay tax on income that is not subject to withholding. See Pub. 505 for the general rules and requirements for paying estimated tax. If you are a qualified farmer, defined below, you are subject to the special rules covered in this chapter for paying estimated tax.

Topics
This chapter discusses:

- Special estimated tax rules for qualified farmers
- Estimated tax penalty

Useful Items
You may want to see:

Publication

- ❑ **505** Tax Withholding and Estimated Tax

Form (and Instructions)

- ❑ **1040** U.S. Individual Income Tax Return
- ❑ **1040-ES** Estimated Tax for Individuals
- ❑ **2210-F** Underpayment of Estimated Tax by Farmers and Fishermen

See chapter 16 for information about getting publications and forms.

Special Estimated Tax Rules for Qualified Farmers

Special rules apply to the payment of estimated tax by individuals who are qualified farmers. If you are not a qualified farmer as defined next, see Pub. 505 for the estimated tax rules that apply.

Qualified Farmer

An individual is a qualified farmer for 2018 if at least two-thirds of his or her gross income from all sources for 2017 or 2018 was from farming. See *Gross Income*, next, for information on how to figure your gross income from all sources and see *Gross Income From Farming*, later, for information on how to figure your gross income from farming. See also *Percentage From Farming*, later, for information on how to determine the percentage of your gross income from farming.

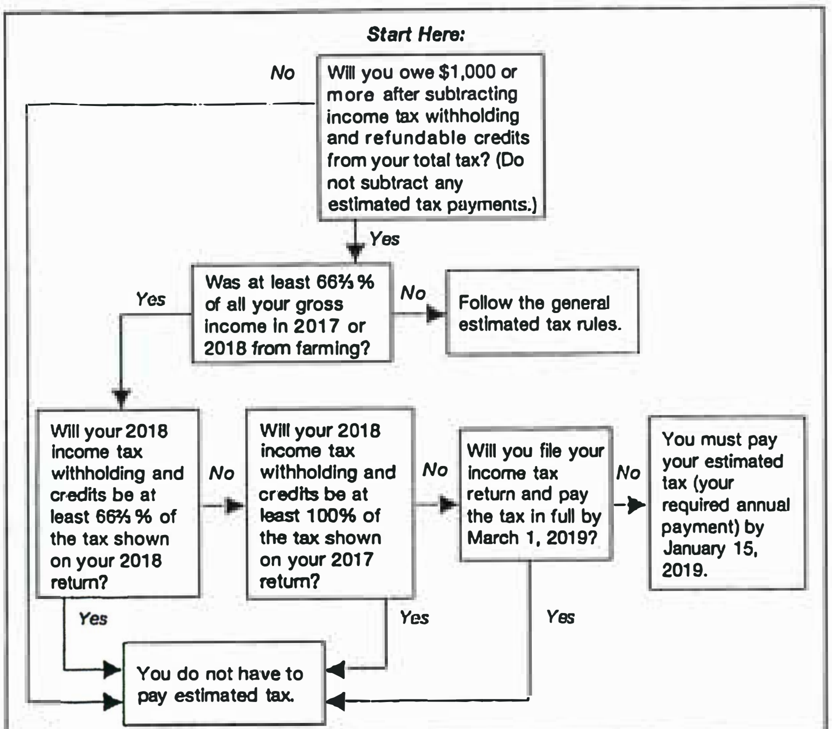
Gross Income

Gross income is all income you receive in the form of money, goods, property, and services that is not exempt from income tax. On a joint return, you must add your spouse's gross income to your gross income. To decide whether two-thirds of your gross income was from farming, use as your gross income the total of the following income (not loss) amounts from your tax return.

- Wages, salaries, tips, etc.
- Taxable interest.
- Ordinary dividends.
- Taxable refunds, credits, or offsets of state and local income taxes.
- Alimony.
- Gross business income from Schedule C (Form 1040).
- Gross business receipts from Schedule C-EZ (Form 1040).
- Capital gains from Schedule D (Form 1040). Losses are not netted against gains.
- Gains on sales of business property.
- Taxable IRA distributions, pensions, annuities, and social security benefits.
- Gross rental income from Schedule E (Form 1040).
- Gross royalty income from Schedule E (Form 1040).
- Taxable net income from an estate or trust reported on Schedule E (Form 1040).
- Income from a Real Estate Mortgage Investment Conduit reported on Schedule E (Form 1040).
- Gross farm rental income from Form 4835.
- Gross farm income from Schedule F (Form 1040).
- Your distributive share of gross income from a partnership, or limited liability company treated as a partnership, from Schedule K-1 (Form 1065).
- Your pro rata share of gross income from an S corporation, from Schedule K-1 (Form 1120S).

#1
SB 2360
3-6-19
p. 4

Figure 15-1. **Estimated Tax for Farmers**



Note. See *Special Rules for Qualified Farmers*, later, for a detailed description of the special estimated tax rules that apply to qualified farmers.

- Unemployment compensation.
- Other income not included with any of the items listed above.

Gross Income From Farming

Gross income from farming is income from cultivating the soil or raising agricultural commodities. It includes the following amounts.

- Income from operating a stock, dairy, poultry, bee, fruit, or truck farm.
- Income from a plantation, ranch, nursery, range, orchard, or oyster bed.
- Crop shares for the use of your land.
- Gains from sales of draft, breeding, dairy, or sporting livestock.

Gross income from farming is the total of the following amounts from your tax return.

- Gross farm income from Schedule F (Form 1040).
- Gross farm rental income from Form 4835.
- Gross farm income from Schedule E (Form 1040), Parts II and III.
- Gains from the sale of livestock used for draft, breeding, sport, or dairy purposes reported on Form 4797.

For more information about income from farming, see chapter 3.

CAUTION

Farm income does not include any of the following:

- *Wages you receive as a farm employee,*
- *Income you receive from contract grain harvesting and hauling with workers and machines you furnish, and*
- *Gains you receive from the sale of farm land and depreciable farm equipment.*

Percentage From Farming

Figure your gross income from all sources, discussed earlier. Then figure your gross income from farming, discussed earlier. Divide your farm gross income by your total gross income to determine the percentage of gross income from farming.

Example 1. Jane Smith had the following total gross income and farm gross income amounts in 2018.

Gross Income

	Total	Farm
Taxable interest	$3,000	
Dividends	500	
Rental income (Sch E)	41,500	
Farm income (Sch F)	75,000	$75,000
Gain (Form 4797)	5,000	5,000
Total	$125,000	$80,000

Schedule D showed gain from the sale of dairy cows carried over from Form 4797 ($5,000) in addition to a loss from the sale of corporate stock ($2,000). However, that loss is not netted against the gain to figure Ms. Smith's total gross income or her gross farm income. Her gross farm income is 64% of her total gross income ($80,000 ÷ $125,000 = 0.64). Since Ms. Smith's gross farm income is less than two-thirds of her total gross income, she is not a qualified farmer and the general estimated tax rules apply.

Special Rules for Qualified Farmers

The following special estimated tax rules apply if you are a qualified farmer for 2018.

- You do not have to pay estimated tax if you file your 2018 tax return and pay all the tax due by March 1, 2019.
- You do not have to pay estimated tax if your 2018 income tax withholding (including any amount applied to your 2018 estimated tax from your 2017 return) will be at least 66⅔% (.6667) of the total tax shown on your 2018 tax return or 100% of the total tax shown on your 2017 return.
- If you must pay estimated tax, you are required to make only one estimated tax payment (your required annual payment) by January 15, 2019, using special rules to figure the amount of the payment. See *Required Annual Payment* next for details.

Figure 15-1 presents an overview of the special estimated tax rules that apply to qualified farmers.

Example 2. Assume the same fact as in *Example 1*. Ms. Smith's gross farm income is only 64% of her total income. Therefore, based on her 2018 income, she does not qualify to use the special estimated tax rules for qualified farmers. However, she does qualify if at least two-thirds of her 2017 gross income was from farming.

Example 3. Assume the same facts as in *Example 1* except that Ms. Smith's farm income from Schedule F was $90,000 instead of $75,000. This made her total gross income $140,000 ($3,000 + $500 + $41,500 + $90,000 + $5,000) and her farm gross income $95,000 ($90,000 + $5,000). She qualifies to use the special estimated tax rules for qualified farmers, since 67.9% (at least two-thirds) of her gross income is from farming ($95,000 ÷ $140,000 = .679).

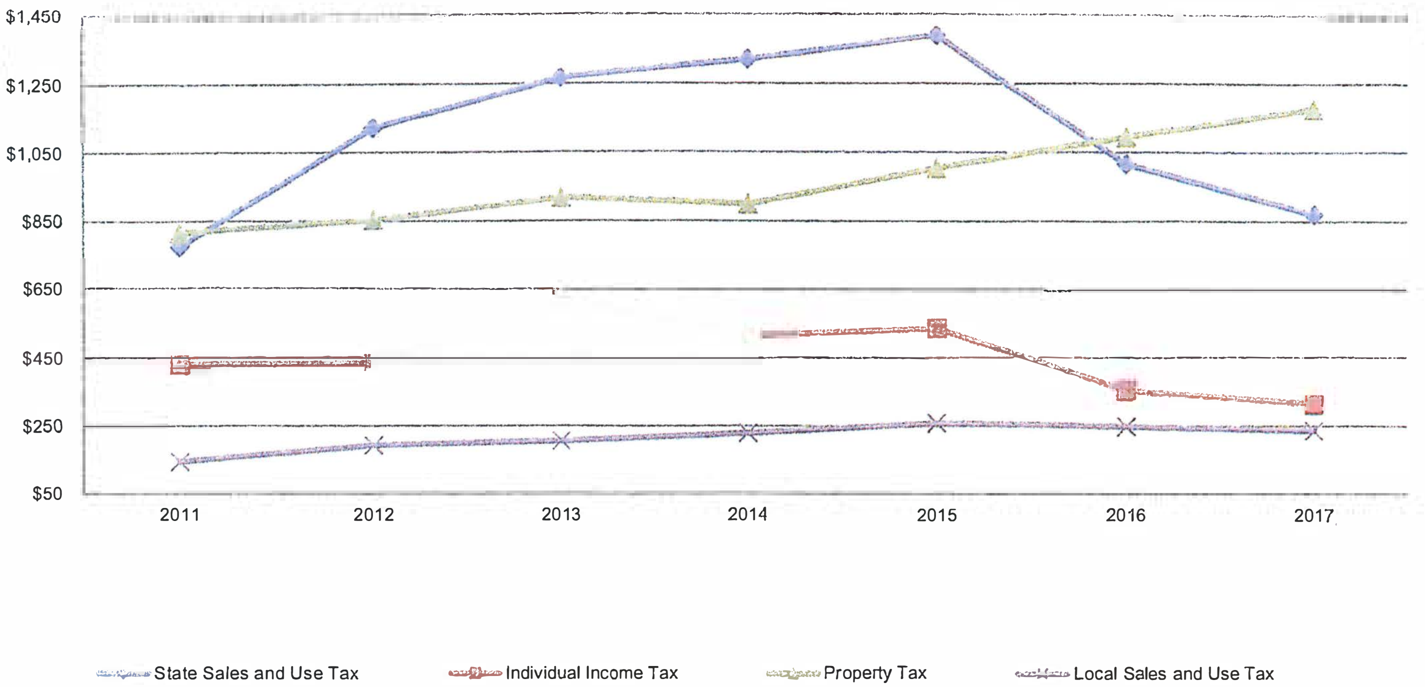
Required Annual Payment

If you are a qualified farmer and must pay estimated tax for 2018, use the worksheet on Form 1040-ES to figure the amount of your required annual payment. Apply the following special rules for qualified farmers to the worksheet.

- On line 12a, multiply line 11c by 66⅔% (.6667).
- On line 12b, enter 100% of the tax shown on your 2017 tax return regardless of the amount of your adjusted gross income. For this purpose, the "tax shown on your 2017 tax return" is the amount on line 63 of your 2017 return modified by certain adjustments. For more information, see chapter 2 of Pub. 505.

#1
SB 2360
3-6-19
p. 5

MAJOR SOURCES OF STATE/LOCAL REVENUE
(Amounts Shown in Millions)



Fiscal Year	State Sales and Use Tax	Individual Income Tax	Property Tax[1]	Local Sales and Use Tax[2]
2011	$775.1	$429.9	$816.2	$144.2
2012	$1,121.3	$432.2	$853.8	$191.8
2013	$1,267.0	$617.9	$918.7	$206.2
2014	$1,320.2	$516.1	$900.1	$228.8
2015	$1,389.0	$537.6	$1,005.1	$258.1
2016	$1,017.4	$355.5	$1,096.1	$248.9
2017	$872.1	$314.2	$1,177.9	$236.1

[1]Property taxes include the 12 percent state-paid credit for 2014 ($94.3 million), 2015 ($105.4 million), and 2016 ($116.3 million).
[2]Local sales tax amounts do not include city occupancy or city restaurant and lodging taxes.

#1
SB 2360
3-6-19
p.6

Register for FAST Training 2019: Develop a Ne

Workshops scheduled February 13 - Jacksonville, IL; February 2
Breese, IL. Find more information on farmdoc website.

Weekly Farm Economics

Grain Farm Income Outlook for 2019: Negative Incomes Ahead?

Gary Schnitkey
Department of Agricultural and Consumer Economics
University of Illinois

January 15, 2019
farmdoc daily (9):7

Recommended citation format: Schnitkey, G. "Grain Farm Income Outlook for 2019: Negative Incomes Ahead?." *farmdoc daily* (9):7, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, January 15, 2019.
Permalink

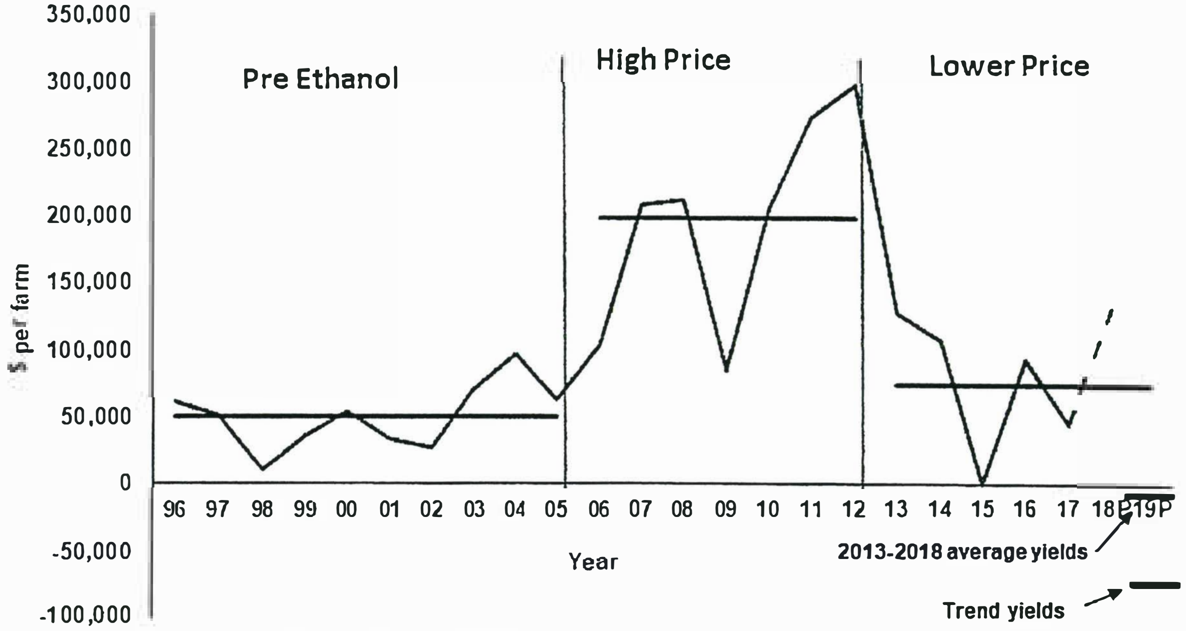
In 2018, many grain farms in Illinois will have incomes above $70,000 per farm, the average from 2013 to 2017. Incomes in 2019 could be negative on many farms. While scenarios exist that result in near average incomes, it seems best to plan for negative incomes on grain farms in 2019. Income from 2018 should be saved to cover potential losses in 2019.

Income in 2018

#1
SB 2360
3-6-19
p.7

Figure 1 shows average net incomes on grain farms enrolled in Illinois Farm Business Farm Management (FBFM) from 1996 to 2017. Projections also are shown for 2018 and 2019. As can be seen, income has varied over time, with three distinct periods. From 1996 to 2006, commodity prices were low relative to the later periods, and net farm income averaged slightly over $50,000 per farm. From 2008 through 2012, corn and soybean price were higher because of increasing use of corn in making ethanol, continuing growth in exports of soybeans, and shortfalls in productions in places around the world. During the 2006 to 2012 period, incomes averaged $198,000 per farm. Since 2012, commodity prices have been lower because of slowing growth in corn used in producing ethanol and high yields across many producing areas in the world. In 2018, concerns increased over whether soybean exports would continue to grow. From 2013 to 2017, farm incomes on grain farms averaged $75,000 per farm. In 2017, net income was lower than the 2013-2017 average at $46,000 per farm.

Figure 1. Net Farm Incomes on Illinois Grain Farms Enrolled in Illinois Farm Business Farm Management



Source: Illinois Farm Business Farm Management

Illinois FBFM has not summarized incomes for 2018; however, it is reasonable to expect 2018 incomes to be higher than the 2013-2017 average of $75,000 per farm. Three factors contribute to higher incomes:

1. Exceptional yields. The U.S. Department of Agriculture (USDA) is projecting record corn and soybean yields in Illinois (see *Crop Production*, USDA). The Illinois state corn yield in 2018 is projected at 210 bushels per acre, 9 bushels higher than the next highest yield of 201 bushels in 2017. The 2018 Illinois soybean yield is projected at 64 bushels per

#1
SB 2360
3-6-19
p.8

acre, 5 bushels higher than the next highest yield of 59 bushels set in 2016. These high yields will increase 2018 incomes (*farmdoc daily*, September 5, 2018).

2. Market Facilitation Program (MFP) payments. MFP is a Federal program providing partial compensation resulting from losses caused by recent trade disputes (see *farmdoc daily*, November 27, 2018, for more detail). MFP makes payments based on 2018 production with per bushel rates at $1.65 for soybeans, $.14 for wheat, and $.01 for corn. The $1.65 per bushel payment for soybeans adds significantly to 2018 incomes. WASDE current midpoint of the 2018 soybean price range is $8.60. Adding a $1.65 MFP payment to $8.60 results in an effective price for soybeans of $10.25, well above average price farmers have received for soybeans since 2014.
3. Opportunities to price 2018 production at higher prices. Before May of 2018, there were opportunities to price soybeans in the high $9 per bushel range, with some rare opportunities to price grain above $10 per bushel. Since the end of May, cash soybean prices have declined to the mid-$8 range, with some cash prices falling below $8 per bushel (see *farmdoc daily*, July 31, 2018, for a discussion of price declines). Many farmers priced a portion of production before May, resulting in a higher selling price then would occur if no pre-pricing occurred. It seems reasonable to expect about 30% of expected production to be priced at higher prices (see *farmdoc daily*, May 15, 2018, for a discussion or pre-harvest hedging related to corn).

As always, incomes will vary across farms because of yield variability. Some areas had poorer yield than other regions. Also, the amount of grain that was priced before May will impact returns across farms.

Income Outlook for 2019

Expectations are for much lower incomes in 2019 because of two factors:

1. Rising costs. Non-land costs of producing corn and soybeans will increase in 2019, led primarily by fertilizer price increases (see *farmdoc daily*, September 25, 2018). Anhydrous ammonia prices were over $60 per ton higher in the fall of 2018 as compared to the fall of 2017. Ammonia prices have continued to increase since the fall. Overall, the era of decreasing per acre costs appears to have ended (*farmdoc daily*, June 21, 2018).
2. Lower soybean prices. Soybean prices averaged in the high $9 per bushel range in 2016 and 2017. Expectations are for lower soybean prices in 2019. Current fall bids place soybean prices near $9 per bushel. It is possible for soybean prices to fall further below $9 per bushel if yields are at or above trend in either South America or the United States.

#1
SB 2360
3-6-19
p.9

To illustrate the potential for lower incomes, 2019 projections are made using a $3.60 per bushel corn price and $8.50 per bushel soybean price. Non-land costs are increased by $25 per acre for corn and $10 per acre for soybeans over 2018 levels. Cash rent levels are assumed to remain the same in 2019 as they were in 2018. Projections are made with $7 per acre of Price Loss Coverage (PLC) payments. Incomes projections are made at 1) trend yields and 2) above-average yields.

2019 Income Projections at Trend Yields

From 2013 to 2018, actual yields in Illinois have average 20 bushels per acre above trend for corn and 6.5 bushels above trend for soybeans (see *farmdoc daily*, December 11, 2018, and January 3, 2019). These higher yields raised incomes in recent years. A return to trend yields would result in lower profits.

At trend yields — 20 bushels per acre lower than in recent years for corn and 6.5 bushels lower for soybeans — 2019 average net income on Illinois grain farms is projected at -$55,000 per farm, a disaster level of income that would result in substantial reductions in working capital and severe erosions of financial position. Some farms would face financial stress. A -$55,000 would be a much lower income than occurring in the 1980s during the height of the farm financial crisis.

2019 Income Projections at Above-Average Yields

Higher yields like those experienced in recent years would result in average net income being -$3,000 per farm. This income would be slightly worse than the 2015 income (see Figure 1). At this income level, erosion of financial position would occur on most farms.

At this point, many scenarios could cause grain farm incomes to be very low. Scenarios are evaluated that would cause 2019 incomes to be near the $75,000 average level experienced from 2013-2017. The following three scenarios seem the most likely to occur:

1. Prices increase to $4.00 per bushel for corn and $9.50 per bushel for soybeans, with yields above trend like they have been in recent years. Prices at these levels are possible. For soybeans, a $9.50 price likely would require lower than expected yields in both Brazil or the United States, and some resolution to the trade dispute with China (see *farmdoc daily*, January 14, 2019).
2. A continuation of the Market Facilitation Program, with yields above trend. Continued MFP payments would add income. The Trump Administration has stated that MFP payments will not continue in 2019.

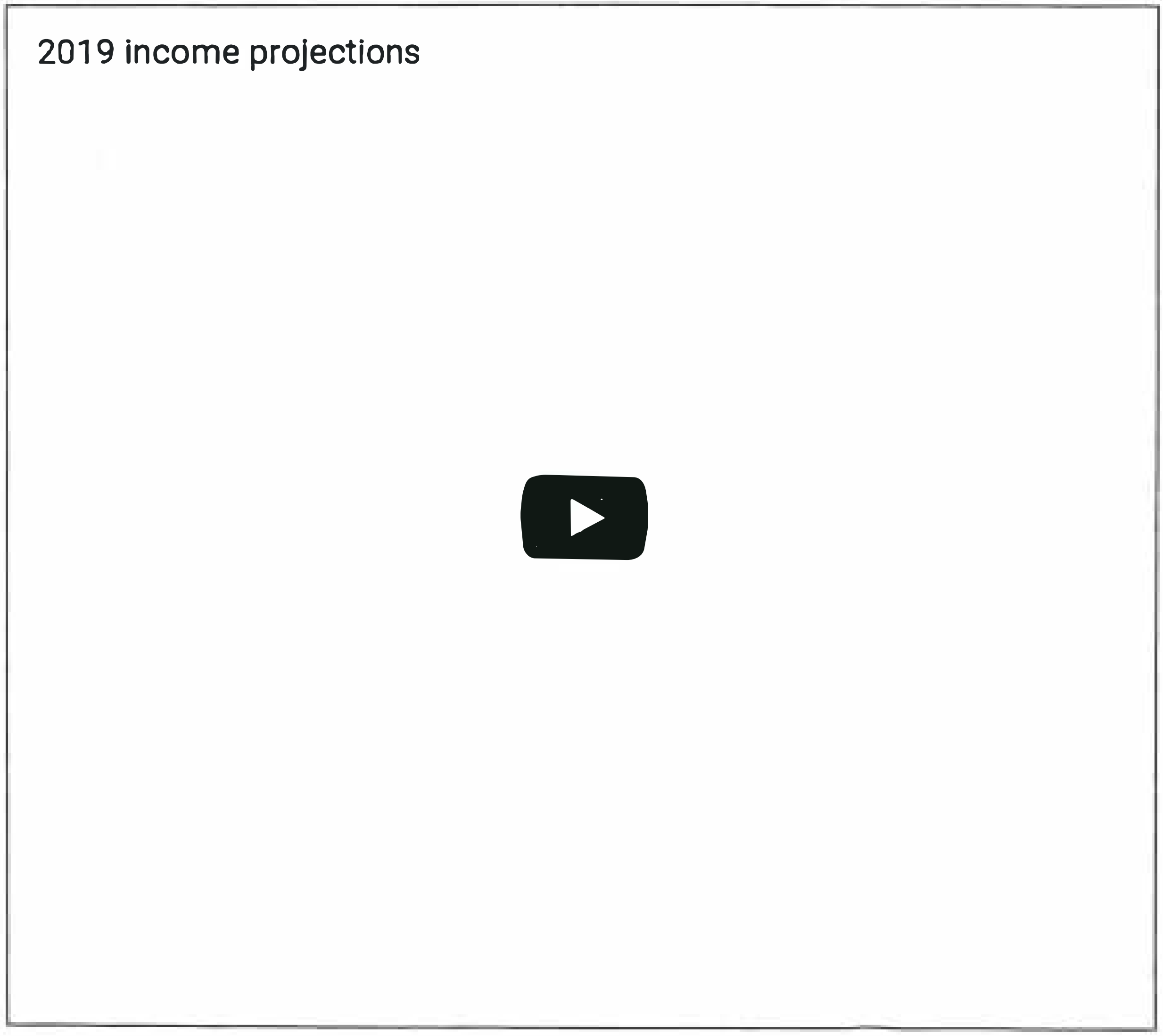
#1
SB 2360
3-6-19
p.10

3. A drought. Drought conditions someplace in the Midwest would increase prices. Given that farmers have purchased Revenue Protection (RP) crop insurance, yield shortfalls would be compensated through crop insurance payments

Summary

At this point, it seems likely that net farm incomes will be very low in 2019. Negative average incomes across Illinois grain farms are possible in 2019. As often happens in agriculture, conditions can change, resulting in a brighter outlook. Still, it seems prudent to plan for low and negative incomes on grain farms in 2019. Saving 2018 income and building working capital seems like a good strategy for combating potentially low income in 2019.

YouTube Video: Discussion and graphs associated with this article



COMMISSIONER
DOUG GOEHRING

ndda@nd.gov
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#2
SB 2360
3-6-19

Testimony of Doug Goehring, Agriculture Commissioner
North Dakota Department of Agriculture
Senate Bill 2360
House Finance and Taxation Committee
Fort Totten Room
March 6, 2019
10:00 a.m.

Chairman Headland and members of the House Finance and Taxation Committee, I am Agriculture Commissioner Doug Goehring. Thank you for the opportunity to appear before the committee. I am here today in support of Senate Bill 2360, which modernizes the Farm Home Property Tax Exemption.

SB 2360 updates the definition of farm income from net to gross for the purposes of qualification for the farm home property tax exemption. The bill adopts the IRS definition of a farmer, which is two-thirds or more of annual gross income from farming activities during any of the two preceding calendar years. It also removes the restrictive and outdated $40,000 cap for allowable off-farm income. I believe all of these changes more adequately capture the real and true income situation of a farm and will serve as a benefit for North Dakota's farmers.

Chairman Headland and committee members, I thank you for your consideration and would be happy to take any questions.

#3
SB 2360
3-6-19
P. 1

NORTH DAKOTA CORN GROWERS ASSOCIATION

Testimony of Paul Thomas
North Dakota Corn Growers Association Vice-President
In Support of SB 2360
March 6, 2019

Chairman Headland and members of the Committee,

My name is Paul Thomas I am the Vice-president of the North Dakota Corn Growers Association and a farmer from Velva, ND.

I appreciate the opportunity today to voice the support of the North Dakota Corn Growers for Senate Bill 2360.

SB 2360 changes the definition of farm income to use gross income, instead of net income. The bill adopts an IRS definition of a farmer, which is two thirds or more of annual gross income from farming activities during any of the two preceding calendar years. The bill also removes the present $40,000 cap for allowable off-farm income.

I, and the Corn Growers Association are supportive of these needed changes for two main reasons, and both deal with the change in classification of farm income in the federal tax law passed at the end of 2017.

Equipment trades and sales by a farmer or rancher in the new tax law would count directly towards the current income cap. If the current farm home tax exemption law is not changed, most producers will no longer qualify for the home exemption. Sales or trade-ins of farm equipment in future years would be included in the state's income line towards the $40,000 cap. A used combine header alone can easily exceed $40,000.

The second problem with the $40,000 cap is custom farm income. I personally do custom farming activities besides my own farming to optimize equipment and employee efficiency. My charge of $20 / acre to seed and $30 / acre to harvest a crop put me against the $40,000 cap in as little as 800 acres of custom work. The big difference between this $40,000 in income and that of a spouse's off farm employment is the costs associated with achieving the $40,000. The $40,000 in custom farming receipts is not a net income figure. I have fuel, insurance, labor, repair and depreciation expenses all that need to be paid from the custom farming income, leaving with a personal income value of about $4,000 not $40,000.

#3
SB 2360
3-6-19
p. 2

Thank you for allowing me to share some reasons why we think you should support changes to the farm home exemption included in SB 2360. I will be happy to try and answer and questions you may have for me.

#4
SB 2360
3-6-19

North Dakota Stockmen's Association

Testimony to the House Finance and Taxation Committee on SB 2360

March 6, 2019

Good morning, Mr. Chairman and members of the Finance and Taxation Committee. My name is Emily Bendish. I am here on behalf of Julie Ellingson of the North Dakota Stockmen's Association, who couldn't be here today due to our organization's board meeting.

We stand in support of SB 2360, which would modernize the farm residence property tax exemption and resolve some of the challenges that ag organizations and lawmakers have struggled with over the years.

One of the issues that we have talked about many times is the archaic off-farm income threshold used as one of the criteria for the farm residence exemption, which has inappropriately rendered many ineligible. The trigger at $40,000 hasn't been updated since 1997. That means it's old enough to vote and to buy beer and, obviously, hasn't kept up with inflation. The question has often been, "So, if not $40,000, what number should we use then?"

Sen. Dotzenrod, we think, has identified the right answer. By adopting the definition of "farmer" as already used by the IRS, we do not need to choose an arbitrary off-farm income number and have to continue to revisit it time and time again in order to adjust it. SB 2360 makes the state's approach consistent with federal law and, by using a percentage of income instead of a finite number that might make sense now but that will become outdated over time, it allows it to flex with the times.

Thank you for the opportunity to comment and for your consideration of a do-pass recommendation on SB 2360.

#5
SB 2360
3-6-19
P. 1

YES on SB 2360

SB 2360 modernizes the farm residence property tax exemption and simplifies the administration of the program for counties.

Bill Features:

- Updates the definition of "farmer" so it is consistent with the IRS's definition and is less cumbersome than existing law
- Has a two-year "look-back period," so it is more responsive to changes than it is now
- Modernizes the exemption, which has not been adjusted since 1997

Tax Department testimony indicated that SB 2360 will simplify the program and reduce the corresponding calculation worksheet from three pages to as few as one!

Supported by...

North Dakota Corn Growers Association
North Dakota Stockmen's Association
U.S. Durum Growers Association
North Dakota Farmers Union
North Dakota Grain Growers Association
North Dakota Farm Credit Council
FCS of Mandan ♦ FCS of North Dakota (Minot) and AgCounty FCS (Fargo)
Red River Valley Sugarbeet Growers Association
North Dakota Soybean Growers Association

#5
SB2360
3-6-19
p. 2

North Dakota Soybean Growers Association

North Dakota Soybean Growers Association
4852 Rocking Horse Circle South, Fargo, ND 58104
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SB 2360 Testimony

Good Morning - Chairman Headland and Committee members.

I 'm Scott Rising, and I proudly represent the ND Soybean Growers Association.

Mr. Chairman and Committee Members, our North Dakota Soybean Growers Association is urging you to give SB2360 a Strong DO PASS recommendation.

Restoring value in the century-long Farm Home Exemption, enacted before statehood, encouraging North Dakota's Farmers and Ranchers to live on the land, to grow their production quality and quantity, along with our State's economic prosperity is important to all.

North Dakota's Farmers and Ranchers have delivered! They have persevered in the hardest of times while reinvesting in themselves, assisting each other, while accepting the risk of planting new crops and varieties to produce $9 BILLION + Dollars of Annual Farm-Gate Returns, which in turn drives 25% of the jobs in our state's economy!

Mr. Chairman, **the yard lights of these individual economic engines glow on the horizon all across North Dakota** assuring all that neighborly help is close by.

The proposal before us this morning successfully resolves a perplexing issue we've faced before in one format or another over the dozen years I've been involved here, as well as before. **The proposal provides a clear definition of a "Farmer" for tax purposes.** Its source, our US Tax Code. The IRS Code provides a "blinding glimpse of the obvious." It says; ***An individual is a qualified farmer if at least two-thirds of his or her gross income from all sources for 2017 or 2018 was from farming.***[1]

Gross income from farming is defined as; income from cultivating the soil or raising agricultural commodities. It includes the following income sources:

- *Income from operating a stock, dairy, poultry, bee, fruit, or truck farm.*
- *Income from a plantation, ranch, nursery, range, orchard, or oyster bed.*
- *Crop shares for the use of your land.*
- *Gains from sales of draft, breeding, dairy, or sporting livestock.*
- *Gross income from farming is the total of the following amounts from your tax return.*
    - *Gross farm income from Schedule F (Form 1040).*
    - *Gross farm rental income from Form 4835.*
    - *Gross farm income from Schedule E (Form 1040), Parts II and III.*
    - *Gains from the sale of livestock used for draft, breeding, sport, or dairy purposes reported on Form 4797.*

[1] IRS Pub 225 - Farmers Tax Guide, 2018

#5
SB2360
3-6-19
p. 3

Mr. Chairman, the proposed state definition of a "Farmer" marries-up with the Federal definition. **It is concise. It is understandable. It is explainable, and readily administrable.** It clearly differentiates between occupational farmers, and "hobby farmers", and non-farmer rural residents.

In contrast, the current state statute is not concise, more difficult to understand, explain and administer. Its difficulty is found in the mix of state code and the impact of more recent federal tax code changes. The result is a great deal of consternation among farmers now ineligible for the exemption, with time-consuming and difficult tax explanations by administrators seeking to help long-standing qualifiers understand the tax code impact and disqualifications, through no fault of their own.

This effort to **restore an effective "encourager"** to our farmers and ranchers has many people concerned that the proposal will unfairly expand the number of farmers qualifying for the exemption. The real answer is that we do not know! We do not know, just as we frequently do not know full measure of use for other new or redefined tax exemptions and changes over time.

Mr. Chairman, we are suggesting a quick look at a couple of available North Dakota farmer demographic data points to assist the Committee in their evaluation of this proposal. In our earlier review of the information suggests that a significant expansion of the exemption's use is not a forgone conclusion. Let's look.

Appendix A is a breakout of 2017 Ad Valorem Property Taxes Paid across North Dakota, by County. It **does not** include Special Taxes, School Taxes, Special Assessments, etc. (all farmers pay these too.)

Appendix A's Columns:

1) Total Ad Valorem **Agricultural** Property Tax Paid in each County
2) Total Ad Valorem **Residential** Property Tax Paid in each County
3) Total Ad Valorem **Commercial** Property Tax Paid in each County
4) Total Ad Valorem **Centrally Assessed** Property Tax Paid in each County
5) A **Tally of the Four Ad Valorem Taxes** in each County
6) Total for Tax Increment Finance Districts and Fire Districts(?)
7) A Tally of all Ad Valorem Taxes for each County
8) **Percentage of Agricultural Property Tax of the Total Ad Valorem 2017 Property Tax Paid** in each County
9) Total Acres of Agricultural Land in the County
10) County Average **Agricultural Tax Paid per Acre**
11) Number of **Primary Occupation Farmers** in the County
12) Number of **Farmers listing** something "**Other**" than farming as an Occupation
13) Total Number of Farmers in County
14) County **Average Farm Size**, in acres
15) **Average Farm Ad Valorem Tax Paid in 2017 on Farm Property** in the County

#5
SB 2360
3-6-19
p. 4

A review of **columns 11, 12 and 13 indicate** to us that we have no reason to believe that the eligibility for the farm home exemption will increase dramatically. **We are expecting to see a number of rightful exemptions restored.**

As you can see**, at the bottom of column 12,** 13,452 (43%) of our 30,000 plus farmers clearly view themselves as something other than a "occupational" farmer, even though they make important contributions to our state's Agricultural economy. We do not have reason to believe many, if any, of this 43% group will qualify for the exemption under the IRS "farmer" definition, because the 2/3s gross income requirement. In fact, we think most of these folks are captured in the *2012 North Dakota Agricultural Statistics Data* grouping of 14,500 farmers with total "Farm Value Sales" of less than $25,000.

Column 15 provides the **tally** of what the **Average Farmer Paid in Ad Valorem Property Taxes** in each County for 2017. Keep in mind that farm ground is taxed by its annual production value, also known as True & Full Value in the taxing process. (This factor times 50% yields the Assessed Value, and it, times the Mill Rate, yields the tax paid in dollars.)

The only other meaningful difference between the Agricultural Ad Valorem taxing process, and the more familiar, for many, Residential property process, is the tax rate. The Agricultural Ad Valorem property tax rate is 10% and the Residential Ad Valorem property tax rate is 9%. The 1% difference is actually a 11.1% difference in dollars paid.

Mr. Chairman let's move on to the promised return to Appendix B.

The spreadsheet captures the first few columns from Appendix A, big enough to read, **sorted by the Percentage of Total Agricultural Ad Valorem 2017 Property Tax Paid in each County** (in the green far right-hand column).

The information reveals is that in the 29 counties on page one, the Ad Valorem Agricultural Property Tax Paid category ranges from a high of 93% down to 51% of the county's total. **In 29 counties, <u>farmland already pays 51%, or more,</u> of the Total County Ad Valorem Property Tax. We believe agriculture producers pay their fair share of the property tax load**. Decreasing, or eliminating, farm home exemptions in these counties will increase the property tax on those that are already paying the lion's share of property taxes, while not reducing property tax on anyone else in a meaningful way.

Please flip the page over on Appendix B. Here we find that the highest paying category for ad valorem taxes in the 40% range is also the Ag category, adding another 8 counties to our tally from page one, yielding 37 of North Dakota's 53 counties. We can add Bowman county, in the 30% range, to the list as well, for 38.

The final 8 on the list, all under 10%, are more urban areas with larger residential populations or areas with more industrial activity, or both.

#5
SB 2360
3-6-19
p. 5

Mr. Chairman, our answer to those who say the Agricultural landowner does not shoulder their fair share of property tax is a resounding . . . **Poppycock!**

Agriculture provides direct Farm Gate receipts of **$9 Billon**, mostly bring capital **to**, not draining from, **our state**. These **Billions** are **turned over multiple times within our state, while employing** directly, or indirectly, **25%, or more, of our State's workforce.**

Providing a small Farm Home **Tax Exemption, at the root, of this incredible economic industry** in every corner of our state is **sensible, affordable and doable!** The potential increased property tax **cost to individual nonfarmers in other categories is likely to be less than what many spend on foo-foo coffee in any given month!**

The North Dakota Tax Department testified at the Senate hearing that the collection and administration of the tax information utilizing the IRS definition of a farmer would be much less than the current statutory process. This alone will make the process easier for taxpayers to understand the process and their potential denial for an exemption request.

Your "Do Pass" on SB2360 will provide a statute matching the Federal tax definition of a "Farmer." Farmers and Ranchers applying for the exemption are more likely to understand the exemption's requirements, in turn, making it easier for local administrators to explain and administer its provisions.

Please give SB2360 a "Do Pass" recommendation for your farmer and rancher friends and neighbors, as well as all of those in North Dakota impacted by their economic activity launches.

Help us keep lights on out there for you!

Thank You All,
Scott

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Agricultural Property Ta[illegible]n Ranch Information

County (ND Tax Dept)	Total Agricultural Paid	Total Residential Paid	Total Commercial Paid	Total Centrally Assessed Paid	Subtotal Ad Valorem Ag, Res, Comm & Ctrl Assessed Taxes Paid	Total Tax Inc & Fire Paid	Subtotal Ad Valorem Taxes	Ag Tax % of Total County Tax	Acres of Ag Land	Ag Property Taxes Per Acre	*Farmer or Rancher as Primary Occupation (2012 Ag Census)*	*Other Occupation (2012 Ag Census)*	*Total Farmers or Ranchers (2012 Ag Census)*	*Average Farm of Ranch Size (2012 Ag Census)*	*Average Farm or Ranch Ad Val Prop Tax (2012 Ag Census)*
ADAMS	$2,340,687	$815,885	$390,418	$141,581	$3,688,570	$0	$3,688,570	63%	606,502	$3.86	236	156	392	1,534	5,921
BARNES	$7,564,734	$5,084,830	$2,841,389	$2,562,337	$18,053,289	$214,405	$18,267,695	41%	917,089	$8.25	448	407	855	1,096	9,042
BENSON	$4,686,107	$832,422	$547,315	$382,754	$6,448,599	$0	$6,448,599	73%	778,218	$6.02	363	200	563	1,425	8,579
BILLINGS	$507,398	$311,314	$677,450	$900,437	$2,396,599	$0	$2,396,599	21%	363,934	$1.39	134	63	197	3,666	5,096
BOTTINEAU	$5,278,017	$4,423,767	$1,462,443	$347,770	$11,511,997	$0	$11,511,997	46%	1,021,065	$5.17	421	442	863	1,042	5,387
BOWMAN	$1,694,242	$1,222,622	$945,258	$651,584	$4,513,706	$0	$4,513,706	38%	667,689	$2.54	189	159	348	2,099	5,331
BURKE	$2,463,058	$601,099	$581,267	$1,556,539	$5,201,963	$0	$5,201,963	47%	652,684	$3.77	265	223	488	1,219	4,596
BURLEIGH	$2,664,364	$67,742,726	$36,651,776	$1,900,369	$108,959,235	$19,086	$108,978,321	2%	1,009,925	$2.64	429	585	1,014	938	2,476
CASS	$10,248,293	$116,494,655	$88,750,677	$3,312,993	$218,806,618	$7,717,685	$226,524,303	5%	1,035,892	$9.89	642	326	968	1,144	11,314
CAVALIER	$7,650,088	$1,468,462	$811,153	$696,377	$10,626,079	$0	$10,626,079	72%	916,455	$8.35	423	244	667	1,410	11,774
DICKEY	$5,484,422	$1,547,507	$1,034,750	$408,292	$8,474,970	$277,606	$8,752,576	63%	701,896	$7.81	292	251	543	1,166	9,106
DIVIDE	$2,937,880	$915,821	$870,254	$2,032,924	$6,756,879	$0	$6,756,879	43%	780,481	$3.76	247	205	452	1,250	4,700
DUNN	$1,689,408	$1,160,648	$1,527,460	$3,537,431	$7,914,947	$0	$7,914,947	21%	997,586	$1.69	415	213	628	1,642	2,775
EDDY	$1,796,378	$592,393	$317,733	$235,159	$2,941,662	$0	$2,941,662	61%	371,966	$4.83	153	178	331	1,196	5,777
EMMONS	$3,828,874	$1,086,038	$377,461	$784,499	$6,076,872	$0	$6,076,872	63%	927,573	$4.13	336	273	609	1,222	5,047
FOSTER	$3,219,659	$1,635,698	$867,448	$608,070	$6,330,875	$0	$6,330,875	51%	397,773	$8.09	189	121	310	1,206	9,757
GOLDEN VALLEY	$932,124	$600,026	$186,338	$249,374	$1,967,863	$0	$1,967,863	47%	506,500	$1.84	156	95	251	2,241	4,123
GRAND FORKS	$7,715,822	$43,882,940	$32,837,179	$1,627,480	$86,063,421	$21,459	$86,084,880	9%	855,627	$9.02	608	362	970	842	7,595
GRANT	$3,417,674	$491,219	$177,691	$62,194	$4,148,778	$0	$4,148,778	82%	1,011,854	$3.38	331	177	508	2,067	6,986
GRIGGS	$2,688,655	$518,485	$542,842	$279,470	$4,029,452	$0	$4,029,452	67%	443,083	$6.07	241	215	456	977	5,930
HETTINGER	$3,705,177	$1,040,379	$345,516	$350,424	$5,441,496	$0	$5,441,496	68%	705,251	$5.25	271	223	494	1,449	7,607
KIDDER	$2,168,468	$650,555	$211,951	$265,673	$3,296,647	$0	$3,296,647	66%	822,184	$2.64	278	281	559	1,396	3,685
LAMOURE	$6,550,894	$979,445	$813,709	$269,368	$8,613,416	$146,970	$8,760,386	75%	717,331	$9.13	379	263	642	1,131	10,326
LOGAN	$2,411,594	$458,906	$200,666	$85,913	$3,157,078	$0	$3,157,078	76%	612,322	$3.94	221	158	379	1,508	5,942
MCHENRY	$4,191,396	$1,771,545	$656,229	$1,208,161	$7,827,331	$0	$7,827,331	54%	1,126,729	$3.72	590	321	911	1,165	4,334
MCINTOSH	$2,965,596	$621,256	$286,683	$326,178	$4,199,712	$0	$4,199,712	71%	600,842	$4.94	281	190	471	1,252	6,185
MCKENZIE	$1,399,400	$3,015,294	$9,023,367	$12,408,302	$25,846,362	$0	$25,846,362	5%	1,050,696	$1.33	351	223	574	1,854	2,466
MCLEAN	$6,723,449	$5,543,183	$1,396,078	$356,512	$14,019,223	$0	$14,019,223	48%	1,138,101	$5.91	448	420	868	1,282	7,577
MERCER	$1,977,973	$5,606,485	$1,196,734	$708,901	$9,490,093	$0	$9,490,093	21%	574,765	$3.44	229	193	422	1,192	4,100
MORTON	$3,294,037	$20,154,644	$10,143,756	$2,781,193	$36,373,630	$0	$36,373,630	9%	1,159,298	$2.84	490	397	887	1,375	$3,905
MOUNTRAIL	$3,202,366	$2,572,513	$5,006,230	$7,112,524	$17,893,632	$0	$17,893,632	18%	1,066,809	$3.00	445	225	670	1,438	$4,314
NELSON	$3,485,538	$622,601	$363,696	$780,423	$5,252,258	$0	$5,252,258	66%	614,109	$5.68	220	383	603	929	$5,277
OLIVER	$1,406,553	$701,818	$161,433	$298,912	$2,568,716	$0	$2,568,716	55%	449,632	$3.13	155	135	290	1,360	$4,257
PEMBINA	$7,736,906	$1,875,516	$1,206,413	$1,604,840	$12,423,676	$0	$12,423,676	62%	666,601	$11.61	364	220	584	1,185	$13,758
PIERCE	$3,408,659	$1,762,027	$858,618	$698,823	$6,728,126	$0	$6,728,126	51%	637,520	$5.35	304	217	521	1,148	$6,142
RAMSEY	$4,476,195	$5,187,365	$2,875,145	$587,230	$13,125,935	$0	$13,125,935	34%	724,146	$6.18	295	278	573	1,219	$7,533
RANSOM	$3,470,768	$2,308,890	$1,245,785	$918,735	$7,944,177	$171,501	$8,115,678	43%	488,731	$7.10	267	281	548	915	$6,497
RENVILLE	$3,212,530	$985,498	$334,267	$251,529	$4,783,823	$0	$4,783,823	67%	534,804	$6.01	223	81	304	1,645	$9,886
RICHLAND	$10,953,175	$7,673,703	$4,283,578	$1,417,552	$24,328,008	$268,388	$24,596,396	45%	854,406	$12.82	549	305	854	1,017	$13,038
ROLETTE	$2,758,143	$1,117,500	$495,826	$111,474	$4,482,944	$5,916	$4,488,860	61%	482,724	$5.71	317	332	649	823	$4,699
SARGENT	$4,909,106	$1,312,635	$1,110,874	$758,795	$8,091,409	$0	$8,091,409	61%	520,921	$9.42	300	237	537	955	$8,996
SHERIDAN	$2,000,560	$141,405	$104,012	$59,512	$2,305,489	$0	$2,305,489	87%	550,916	$3.63	202	168	370	1,388	$5,038
SIOUX	$760,694	$29,068	$22,278	$2,338	$814,378	$0	$814,378	93%	375,595	$2.03	117	59	176	3,256	$6,610
SLOPE	$1,304,304	$31,124	$35,825	$149,252	$1,520,506	$0	$1,520,506	86%	611,395	$2.13	137	84	221	3,051	$6,499
STARK	$3,478,670	$18,923,026	$20,322,766	$1,717,012	$44,441,474	$0	$44,441,474	8%	817,849	$4.25	407	430	837	991	$4,212
STEELE	$4,018,723	$503,421	$315,405	$834,440	$5,671,989	$0	$5,671,989	71%	445,749	$9.02	224	131	355	1,200	$10,824
STUTSMAN	$8,542,156	$10,773,355	$5,718,331	$1,367,442	$26,401,284	$189,392	$26,590,676	32%	1,302,623	$6.56	567	461	1,028	1,267	$8,309
TOWNER	$4,278,840	$558,811	$286,883	$25,578	$5,150,112	$0	$5,150,112	83%	641,346	$6.67	323	206	529	1,220	$8,137
TRAILL	$7,101,681	$2,938,162	$2,192,046	$260,640	$12,492,529	$211,994	$12,704,523	56%	530,819	$13.38	298	170	468	1,170	$15,655
WALSH	$9,357,165	$4,090,465	$1,505,986	$709,191	$15,662,807	$0	$15,662,807	60%	789,583	$11.85	455	507	962	834	$9,883
WARD	$7,503,643	$47,864,605	$36,234,826	$4,359,135	$95,962,209	$186,368	$96,148,576	8%	1,146,183	$6.55	578	383	961	1,117	$7,316
WELLS	$5,587,480	$1,371,312	$656,138	$665,128	$8,280,058	$0	$8,280,058	67%	781,448	$7.15	309	234	543	1,359	$9,717
WILLIAMS	$3,466,518	$14,566,361	$24,231,033	$11,195,497	$53,459,411	$2,315,725	$55,775,135	6%	1,223,190	$2.83	397	361	758	1,403	$3,970
Totals	$220,616,240	$419,181,429	$306,240,386	$76,924,258	$1,022,962,312	$11,746,494	$1,034,708,807		39,728,410	$5.49	17,509	13,452	30,961	1,283	$7,045
											57%	43%	100%		Average ND Farm or Ranch 2017 Property Tax Paid

Appendix A

SB 2360
3-6-19
#5
p.6

2017 Agriculture Tax Paid as Percentage of Total County Advalorem Tax Paid

County	Agricultural Total Paid	Residential Total Paid	Commercial Total Paid	Centrally Assessed Total Paid	Subtotal Ad Valorem Ag, Res, Comm & Ctrl Assessed Taxes Paid	Total Tax Incrmt & Fire Paid	Total Ad Valorem Taxes	Ag % of Total County Tax
SIOUX	$760,694	$29,068	$22,278	$2,338	$814,378	$0	$814,378	93%
SHERIDAN	$2,000,560	$141,405	$104,012	$59,512	$2,305,489	$0	$2,305,489	87%
SLOPE	$1,304,304	$31,124	$35,825	$149,252	$1,520,506	$0	$1,520,506	86%
TOWNER	$4,278,840	$558,811	$286,883	$25,578	$5,150,112	$0	$5,150,112	83%
GRANT	$3,417,674	$491,219	$177,691	$62,194	$4,148,778	$0	$4,148,778	82%
LOGAN	$2,411,594	$458,906	$200,666	$85,913	$3,157,078	$0	$3,157,078	76%
LAMOURE	$6,550,894	$979,445	$813,709	$269,368	$8,613,416	$146,970	$8,760,386	75%
BENSON	$4,686,107	$832,422	$547,315	$382,754	$6,448,599	$0	$6,448,599	73%
CAVALIER	$7,650,088	$1,468,462	$811,153	$696,377	$10,626,079	$0	$10,626,079	72%
STEELE	$4,018,723	$503,421	$315,405	$834,440	$5,671,989	$0	$5,671,989	71%
MCINTOSH	$2,965,596	$621,256	$286,683	$326,178	$4,199,712	$0	$4,199,712	71%
HETTINGER	$3,705,177	$1,040,379	$345,516	$350,424	$5,441,496	$0	$5,441,496	68%
WELLS	$5,587,480	$1,371,312	$656,138	$665,128	$8,280,058	$0	$8,280,058	67%
RENVILLE	$3,212,530	$985,498	$334,267	$251,529	$4,783,823	$0	$4,783,823	67%
GRIGGS	$2,688,655	$518,485	$542,842	$279,470	$4,029,452	$0	$4,029,452	67%
NELSON	$3,485,538	$622,601	$363,696	$780,423	$5,252,258	$0	$5,252,258	66%
KIDDER	$2,168,468	$650,555	$211,951	$265,673	$3,296,647	$0	$3,296,647	66%
ADAMS	$2,340,687	$815,885	$390,418	$141,581	$3,688,570	$0	$3,688,570	63%
EMMONS	$3,828,874	$1,086,038	$377,461	$784,499	$6,076,872	$0	$6,076,872	63%
DICKEY	$5,484,422	$1,547,507	$1,034,750	$408,292	$8,474,970	$277,606	$8,752,576	63%
PEMBINA	$7,736,906	$1,875,516	$1,206,413	$1,604,840	$12,423,676	$0	$12,423,676	62%
ROLETTE	$2,758,143	$1,117,500	$495,826	$111,474	$4,482,944	$5,916	$4,488,860	61%
EDDY	$1,796,378	$592,393	$317,733	$235,159	$2,941,662	$0	$2,941,662	61%
SARGENT	$4,909,106	$1,312,635	$1,110,874	$758,795	$8,091,409	$0	$8,091,409	61%
WALSH	$9,357,165	$4,090,465	$1,505,986	$709,191	$15,662,807	$0	$15,662,807	60%
TRAILL	$7,101,681	$2,938,162	$2,192,046	$260,640	$12,492,529	$211,994	$12,704,523	56%
OLIVER	$1,406,553	$701,818	$161,433	$298,912	$2,568,716	$0	$2,568,716	55%
MCHENRY	$4,191,396	$1,771,545	$656,229	$1,208,161	$7,827,331	$0	$7,827,331	54%
FOSTER	$3,219,659	$1,635,698	$867,448	$608,070	$6,330,875	$0	$6,330,875	51%
PIERCE	$3,408,659	$1,762,027	$858,618	$698,823	$6,728,126	$0	$6,728,126	51%

Agriculture Pays 50% or More of the Total Ad Valorem Property Tax in the 29 Counties Above

SB 2360 #5
3-6-19
p. 7

2017 Agriculture Tax Paid as Percentage of Total County Advalorem Tax Paid

MCLEAN	$6,723,449	$5,543,183	$1,396,078	$356,512	$14,019,223	$0	$14,019,223	48%
GOLDEN VALLEY	$932,124	$600,026	$186,338	$249,374	$1,967,863	$0	$1,967,863	47%
BURKE	$2,463,058	$601,099	$581,267	$1,556,539	$5,201,963	$0	$5,201,963	47%
BOTTINEAU	$5,278,017	$4,423,767	$1,462,443	$347,770	$11,511,997	$0	$11,511,997	46%
RICHLAND	$10,953,175	$7,673,703	$4,283,578	$1,417,552	$24,328,008	$268,388	$24,596,396	45%
DIVIDE	$2,937,880	$915,821	$870,254	$2,032,924	$6,756,879	$0	$6,756,879	43%
RANSOM	$3,470,768	$2,308,890	$1,245,785	$918,735	$7,944,177	$171,501	$8,115,678	43%
BARNES	$7,564,734	$5,084,830	$2,841,389	$2,562,337	$18,053,289	$214,405	$18,267,695	41%
BOWMAN	$1,694,242	$1,222,622	$945,258	$651,584	$4,513,706	$0	$4,513,706	38%
RAMSEY	$4,476,195	$5,187,365	$2,875,145	$587,230	$13,125,935	$0	$13,125,935	34%
STUTSMAN	$8,542,156	$10,773,355	$5,718,331	$1,367,442	$26,401,284	$189,392	$26,590,676	32%
DUNN	$1,689,408	$1,160,648	$1,527,460	$3,537,431	$7,914,947	$0	$7,914,947	21%
BILLINGS	$507,398	$311,314	$677,450	$900,437	$2,396,599	$0	$2,396,599	21%
MERCER	$1,977,973	$5,606,485	$1,196,734	$708,901	$9,490,093	$0	$9,490,093	21%
MOUNTRAIL	$3,202,366	$2,572,513	$5,006,230	$7,112,524	$17,893,632	$0	$17,893,632	18%
MORTON	$3,294,037	$20,154,644	$10,143,756	$2,781,193	$36,373,630	$0	$36,373,630	9%
GRAND FORKS	$7,715,822	$43,882,940	$32,837,179	$1,627,480	$86,063,421	$21,459	$86,084,880	9%
STARK	$3,478,670	$18,923,026	$20,322,766	$1,717,012	$44,441,474	$0	$44,441,474	8%
WARD	$7,503,643	$47,864,605	$36,234,826	$4,359,135	$95,962,209	$186,368	$96,148,576	8%
WILLIAMS	$3,466,518	$14,566,361	$24,231,033	$11,195,497	$53,459,411	$2,315,725	$55,775,135	6%
MCKENZIE	$1,399,400	$3,015,294	$9,023,367	$12,408,302	$25,846,362	$0	$25,846,362	5%
CASS	$10,248,293	$116,494,655	$88,750,677	$3,312,993	$218,806,618	$7,717,685	$226,524,303	5%
BURLEIGH	$2,664,364	$67,742,726	$36,651,776	$1,900,369	$108,959,235	$19,086	$108,978,321	2%
Totals	**$220,616,240**	**$419,181,429**	**$306,240,386**	**$76,924,258**	**$1,022,962,312**	**$11,746,494**	**$1,034,708,807**	

#5
SB 2360
3-6-19
p. 8

2017 County Ad Valorem Tax [illegible] Property Classification - **Alpha**

County	Total Agricultural Paid	Total Residential Paid	Total Commercial Paid	Total Centrally Assessed Paid	Subtotal Ad Valorem Ag, Res, Comm & Ctrl Assessed Taxes Paid	Total Tax Inc & Fire Paid	Subtotal Ad Valorem Taxes	Ag Tax % of Total County Tax
ADAMS	$2,340,687	$815,885	$390,418	$141,581	$3,688,570	$0	$3,688,570	63%
BARNES	$7,564,734	$5,084,830	$2,841,389	$2,562,337	$18,053,289	$214,405	$18,267,695	41%
BENSON	$4,686,107	$832,422	$547,315	$382,754	$6,448,599	$0	$6,448,599	73%
BILLINGS	$507,398	$311,314	$677,450	$900,437	$2,396,599	$0	$2,396,599	21%
BOTTINEAI	$5,278,017	$4,423,767	$1,462,443	$347,770	$11,511,997	$0	$11,511,997	46%
BOWMAN	$1,694,242	$1,222,622	$945,258	$651,584	$4,513,706	$0	$4,513,706	38%
BURKE	$2,463,058	$601,099	$581,267	$1,556,539	$5,201,963	$0	$5,201,963	47%
BURLEIGH	$2,664,364	$67,742,726	$36,651,776	$1,900,369	$108,959,235	$19,086	$108,978,321	2%
CASS	$10,248,293	$116,494,655	$88,750,677	$3,312,993	$218,806,618	$7,717,685	$226,524,303	5%
CAVALIER	$7,650,088	$1,468,462	$811,153	$696,377	$10,626,079	$0	$10,626,079	72%
DICKEY	$5,484,422	$1,547,507	$1,034,750	$408,292	$8,474,970	$277,606	$8,752,576	63%
DIVIDE	$2,937,880	$915,821	$870,254	$2,032,924	$6,756,879	$0	$6,756,879	43%
DUNN	$1,689,408	$1,160,648	$1,527,460	$3,537,431	$7,914,947	$0	$7,914,947	21%
EDDY	$1,796,378	$592,393	$317,733	$235,159	$2,941,662	$0	$2,941,662	61%
EMMONS	$3,828,874	$1,086,038	$377,461	$784,499	$6,076,872	$0	$6,076,872	63%
FOSTER	$3,219,659	$1,635,698	$867,448	$608,070	$6,330,875	$0	$6,330,875	51%
GOLDEN V	$932,124	$600,026	$186,338	$249,374	$1,967,863	$0	$1,967,863	47%
GRAND FO	$7,715,822	$43,882,940	$32,837,179	$1,627,480	$86,063,421	$21,459	$86,084,880	9%
GRANT	$3,417,674	$491,219	$177,691	$62,194	$4,148,778	$0	$4,148,778	82%
GRIGGS	$2,688,655	$518,485	$542,842	$279,470	$4,029,452	$0	$4,029,452	67%
HETTINGEI	$3,705,177	$1,040,379	$345,516	$350,424	$5,441,496	$0	$5,441,496	68%
KIDDER	$2,168,468	$650,555	$211,951	$265,673	$3,296,647	$0	$3,296,647	66%
LAMOURE	$6,550,894	$979,445	$813,709	$269,368	$8,613,416	$146,970	$8,760,386	75%
LOGAN	$2,411,594	$458,906	$200,666	$85,913	$3,157,078	$0	$3,157,078	76%
MCHENRY	$4,191,396	$1,771,545	$656,229	$1,208,161	$7,827,331	$0	$7,827,331	54%
MCINTOSH	$2,965,596	$621,256	$286,683	$326,178	$4,199,712	$0	$4,199,712	71%
MCKENZIE	$1,399,400	$3,015,294	$9,023,367	$12,408,302	$25,846,362	$0	$25,846,362	5%
MCLEAN	$6,723,449	$5,543,183	$1,396,078	$356,512	$14,019,223	$0	$14,019,223	48%
MERCER	$1,977,973	$5,606,485	$1,196,734	$708,901	$9,490,093	$0	$9,490,093	21%
MORTON	$3,294,037	$20,154,644	$10,143,756	$2,781,193	$36,373,630	$0	$36,373,630	9%
MOUNTRA	$3,202,366	$2,572,513	$5,006,230	$7,112,524	$17,893,632	$0	$17,893,632	18%
NELSON	$3,485,538	$622,601	$363,696	$780,423	$5,252,258	$0	$5,252,258	66%

#5
SB 2360
3-6-19
p.9

Appendix C

2017 County Ad Valorem Tax Paid by Property Classification - **Alpha**

OLIVER	$1,406,553	$701,818	$161,433	$298,912	$2,568,716	$0	$2,568,716	55%
PEMBINA	$7,736,906	$1,875,516	$1,206,413	$1,604,840	$12,423,676	$0	$12,423,676	62%
PIERCE	$3,408,659	$1,762,027	$858,618	$698,823	$6,728,126	$0	$6,728,126	51%
RAMSEY	$4,476,195	$5,187,365	$2,875,145	$587,230	$13,125,935	$0	$13,125,935	34%
RANSOM	$3,470,768	$2,308,890	$1,245,785	$918,735	$7,944,177	$171,501	$8,115,678	43%
RENVILLE	$3,212,530	$985,498	$334,267	$251,529	$4,783,823	$0	$4,783,823	67%
RICHLAND	$10,953,175	$7,673,703	$4,283,578	$1,417,552	$24,328,008	$268,388	$24,596,396	45%
ROLETTE	$2,758,143	$1,117,500	$495,826	$111,474	$4,482,944	$5,916	$4,488,860	61%
SARGENT	$4,909,106	$1,312,635	$1,110,874	$758,795	$8,091,409	$0	$8,091,409	61%
SHERIDAN	$2,000,560	$141,405	$104,012	$59,512	$2,305,489	$0	$2,305,489	87%
SIOUX	$760,694	$29,068	$22,278	$2,338	$814,378	$0	$814,378	93%
SLOPE	$1,304,304	$31,124	$35,825	$149,252	$1,520,506	$0	$1,520,506	86%
STARK	$3,478,670	$18,923,026	$20,322,766	$1,717,012	$44,441,474	$0	$44,441,474	8%
STEELE	$4,018,723	$503,421	$315,405	$834,440	$5,671,989	$0	$5,671,989	71%
STUTSMAN	$8,542,156	$10,773,355	$5,718,331	$1,367,442	$26,401,284	$189,392	$26,590,676	32%
TOWNER	$4,278,840	$558,811	$286,883	$25,578	$5,150,112	$0	$5,150,112	83%
TRAILL	$7,101,681	$2,938,162	$2,192,046	$260,640	$12,492,529	$211,994	$12,704,523	56%
WALSH	$9,357,165	$4,090,465	$1,505,986	$709,191	$15,662,807	$0	$15,662,807	60%
WARD	$7,503,643	$47,864,605	$36,234,826	$4,359,135	$95,962,209	$186,368	$96,148,576	8%
WELLS	$5,587,480	$1,371,312	$656,138	$665,128	$8,280,058	$0	$8,280,058	67%
WILLIAMS	$3,466,518	$14,566,361	$24,231,033	$11,195,497	$53,459,411	$2,315,725	$55,775,135	6%
Totals	**$220,616,240**	**$419,181,429**	**$306,240,386**	**$76,924,258**	**$1,022,962,312**	**$11,746,494**	**$1,034,708,807**	

#5
SB 2360
3-6-19
p. 10

#5
SB 2360
3-6-19
p. 11

Chairman Headland and fellow members on the Finance and Taxation Committee members,

I would like to be testifying in front of you for Senate Bill 2360, but prior obligations do not allow that. I would encourage a DO PASS Recommendation for 2360, a much-needed update to a valuable tool.

Being handed out is some brief history of my family and farming operation, please take the time to read my story.

Just a few brief points:

> I started a farming partnership with my brother for ease of book-work.
>
> We have a partnership with our sugar beet stock, again, for ease of book-work.
>
> The partnership pays cash rent to myself for the land I own (IRS off-farm income).
>
> Because of this rent income, I no longer quality for the farmhouse exemption, even though most would consider this farm income.

Thank you for your time. Please feel free to contact me with any questions, or comments.

Craig Olson

Craig.M.Olson@rrt.net

Cell: 701-640-4002

#5
SB 2360
3-6-19
p. 12

Good morning, I am Craig Olson from Colfax, ND. I was born and raised on a farm near Colfax where I currently farm and reside with my family. After High school, I attended NDSU for General Agriculture. We have four kids ages, 5 months to 8 years old. Our family farm is a 3600-acre diversified crop and livestock farm in Richland County.

Following college, I came home and started farming. After several years of farming with my father and brother, my brother and I formed a partnership, J&C Olson Farm. We both knew we were going to stay and farm. We started this partnership about 10 years ago. We did this for several reasons. One of the main reasons to form the partnership was for the book-work ease. We did not have to write two separate checks or do twice the book-work.

I've had the opportunity to purchase some land over the years and, when our loans are finally paid off, will be a huge asset to our operation. Since the partnership farms the land, we then pay cash rent to ourselves.

When my brother and I acquired beet stock, we formed a side partnership. This second partnership owns the stock and J&C Olson farms the acres.

Because of the partnerships we created, and the cash rent is paid back to ourselves, I no longer qualify for the agriculture residence exemption. SB 2360 would modernize the farm home exemption and potentially allow for me to qualify. For years the simple form used for exemptions recognized cash rent as farm income. In Richland County last year, a new form was used that recognizes cash rent as non-farm income (in accordance with IRS instructions).

Often this law is stated as unfair. I see myself as a great community person. Yes, while other rural people are not exempt, if you take a step back and look at the whole picture it equals out. Whether we are snow blowing out roads and neighbors, using our tractors to pull out stuck vehicles or letting our neighbors use our shop, tools or loader tractor. Taking into consideration the land we own and rent, our small family farm, and land lords, pay about $45,000 dollars in property tax each year.

I would consider my family farm a young and growing farm, although I have been farming for almost 15 years. My farm has been around for many years, but it is still a young and viable operation. This bill will help keep myself and other young producers in our rural communities which is vital for North Dakota.

My wife works part time, her part time salary alone does not affect our situation with the current law in place. One reason she still works is to support our young and growing family with health insurance. We have been talking now about when is it her time to, stay home, not only to raise our children, but to help on the farm and do more in our community. Between the health care sky-rocketing cost, and now the additional tax burden we acquired from this out dated law, we have to rethink if this is an option.

I know this bill does not address the issues of assessed values. My house located on the farm, would not sell for the assessed price that it is at. Assessing house on farms is hard. My house is

#5
SB 2360
3-6-19
p.13

not many steps away from my livelihood. Cattle, flies, smell, noise and dust, just to name a few. That is also why SB 2360 is another great tool.

Please Do Support SB 2360

Thank You

Craig Olson
701-640-4002
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#6
SB 2360
3-6-19

Testimony Prepared for the

House Finance & Taxation Committee

January 28, 2019

By: Donnell Preskey, NDACo

NDACo
NORTH DAKOTA ASSOCIATION OF COUNTIES

RE: Neutral Testimony for Senate Bill 2360 – Farm Residence Exemption

Good morning Chairman Headland and committee members. Thank you for granting me this opportunity to provide, what I hope you will agree is, neutral testimony regarding Senate Bill 2360. As testified earlier, our organization has complicated feelings about the farm residence provisions within the property tax code and would welcome changes that would improve its application.

As many of you may know, the current farm residence exemption provisions are complex and can be confusing, particularly for the new farmer and new tax assessor. After listening to comments by the Tax Department in the Senate hearing, and further discussion with our Directors of Tax Equalization, it seems likely that SB2360 (particularly when coupled with SB2278) would make the eligibility determination simpler for both. In this way, its passage may be a positive change.

It has been suggested that this bill will restore the exemption to some that have lost it due to the frozen level of non-farm income and provide it to others that may never have gotten it. As this committee is more aware than most, such an expansion of a property tax exemption has no real impact to county, school or township budgets. Local budgets are developed based on total revenue needs, and the relative taxable value is simply the allocation of that need among the various taxpayers. By exempting a larger number of farm residences, it only results in a slight increase in taxes to non-exempt residences, commercial property and the farm land itself.

My purpose today, is only to make sure the record reflects these two factors for the committee's deliberations. Thank you.

#1
SB 2360
3-13-19
p. 1

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Sixty-sixth
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT

ENGROSSED SENATE BILL NO. 2360

Introduced by

Senators Dotzenrod, Erbele, Wanzek

Representatives Holman, J. Nelson

A BILL for an Act to amend and reenact subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to the calculation of income for purposes of the farm residence property tax exemption; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

b. It is the intent of the legislative assembly that this exemption as applied to a residence must be strictly construed and interpreted to exempt only a residence that is situated on a farm and which is occupied or used by a person who is a farmer and that the exemption may not be applied to property which is occupied or used by a person who is not a farmer. For purposes of this subdivision:

(1) "Farm" means a single tract or contiguous tracts of agricultural land containing a minimum of ten acres [4.05 hectares] and for which the farmer, actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, has ~~received~~ annual ~~net~~gross income from farming activities which is ~~fifty~~sixty-six percent or more of annual ~~net~~gross income, including ~~net~~gross income of ~~a spouse if married~~all individuals over the age of eighteen residing with the farmer, during any of the ~~three~~two preceding calendar years.

(2) "Farmer" means an individual who normally devotes the major portion of time to the activities of producing products of the soil, with the exception of marijuana grown under chapter 19-24.1; poultry; livestock; or dairy farming in such products' unmanufactured state and has received annual ~~net~~gross

1
SB 2360
3-13-19
P. 2

income from farming activities which is ~~fifty~~sixty-six percent or more of annual ~~net~~gross income, including ~~net~~gross income of ~~a spouse if married~~all individuals over the age of eighteen residing with the farmer, during any of the ~~three~~two preceding calendar years. For purposes of this paragraph, "farmer" includes a:

(a) "Beginning farmer", which means an individual who has begun occupancy and operation of a farm within the ~~three~~two preceding calendar years; who normally devotes the major portion of time to the activities of producing products of the soil, poultry, livestock, or dairy farming in such products' unmanufactured state; and who does not have a history of farm income from farm operation for each of the ~~three~~two preceding calendar years.

(b) "Retired farmer", which means an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer the residence in which the person lives and for which the exemption is claimed.

(c) "Surviving spouse of a farmer", which means the surviving spouse of an individual who is deceased, who at the time of death owned and occupied as a farmer the residence in which the surviving spouse lives and for which the exemption is claimed. The exemption under this subparagraph expires at the end of the fifth taxable year after the taxable year of death of an individual who at the time of death was an active farmer. The exemption under this subparagraph applies for as long as the residence is continuously occupied by the surviving spouse of an individual who at the time of death was a retired farmer.

(3) "Gross income" means gross income as defined under the federal Internal Revenue Code.

(4) "~~Net~~Gross income from farming activities" means ~~taxable~~gross income from ~~those activities as computed for income tax purposes pursuant to chapter 57-38 adjusted to include the following:~~

#1
SB 2360
3-13-19
P 3

~~(a) The difference between gross sales price less expenses of sale and the amount reported for sales of agricultural products for which the farmer reported a capital gain.~~

~~(b) Interest expenses from farming activities which have been deducted in computing taxable income.~~

~~(c) Depreciation expenses from farming activities which have been deducted in computing taxable income~~farming as defined for purposes of determining if an individual is a farmer eligible to use the special estimated income tax payment rules for farmers under section 6654 of the federal Internal Revenue Code [26 U.S.C. 6654].

~~(4)~~(5) When exemption is claimed under this subdivision for a residence, the assessor may require that the occupant of the residence who it is claimed is a farmer provide to the assessor for the year or years specified by the assessor a written statement in which it is stated that ~~fifty~~sixty-six percent or more of the ~~net~~gross income of that occupant~~,~~ and ~~spouse if married and both spouses occupy~~all individuals over the age of eighteen residing at the residence, was, or was not, ~~net~~gross income from farming activities.

~~(5)~~(6) In addition to any of the provisions of this subsection or any other provision of law, a residence situated on agricultural land is not exempt for the year if it is occupied by an individual engaged in farming who had nonfarm income, including that of a spouse if married, of more than ~~forty~~sixty thousand dollars during each of the three preceding calendar years. This paragraph does not apply to a retired farmer or a beginning farmer as defined in paragraph 2.

~~(6)~~(7) For purposes of this section, "livestock" includes "nontraditional livestock" as defined in section 36-01-00.1.

~~(7)~~(8) A farmer operating a bed and breakfast facility in the farm residence occupied by that farmer is entitled to the exemption under this section for that residence if the farmer and the residence would qualify for exemption under this section except for the use of the residence as a bed and breakfast facility.

#1
SB 2360
3-13-19
p. 4

(9) For purposes of computing the percentage of the annual gross income from farming activities, exclude from the total annual gross income any gain from the sale or exchange of appreciable farm equipment and machinery.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable events beginning after December 31, 2019.