

**STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL**

April 17, 2017

Opinion No. 17-30

Definition of “Agriculture” for Property Taxation

Question

Is the definition for “agriculture” at Tenn. Code Ann. §§ 1-3-105(2)(A) and 43-1-113(b)(1) applicable to the word “agriculture” as used in the definition of “Farm Property” in Tenn. Code Ann. § 67-5-501(3)?

Opinion

Yes.

ANALYSIS

“As used in [the Tennessee Code], unless the context otherwise requires,” “agriculture” is defined as

- (i) The land, buildings and machinery used in the commercial production of farm products and nursery stock;
- (ii) The activity carried on in connection with the commercial production of farm products and nursery stock;
- (iii) Recreational and educational activities on land used for the commercial production of farm products and nursery stock; and
- (iv) Entertainment activities conducted in conjunction with, but secondary to, commercial production of farm products and nursery stock, when such activities occur on land used for the commercial production of farm products and nursery stock;

Tenn. Code Ann. § 1-3-105(2)(A).

Tennessee Code Annotated § 43-1-113(b)(1) also defines “agriculture,” and that definition, like the definition in § 1-3-105(2)(A), is “applicable to the term wherever it appears in the code, unless a different definition is specifically made applicable to the part, chapter, or section in which the term appears.” Tenn. Code Ann. § 43-1-113(a). The definitions of “agriculture” in § 1-3-105(2)(A) and § 43-1-113(b)(1) are substantively identical.

For purposes of taxation, the Tennessee Constitution separates real property into four subclassifications: “Public Utility Property,” “Industrial and Commercial Property,” “Residential Property,” and “Farm Property.” Article II, Section 28, of the Constitution gives the General Assembly authority to determine “the value and definition of property in each class or subclass.” The Legislature has exercised that authority to define “Farm Property” as “all real property that is used, or held for use, in *agriculture*” Tenn. Code Ann. § 67-5-501(3) (emphasis added).

The word “agriculture” is used in Tenn. Code Ann. § 67-5-501(3), is not specifically defined in connection with its use in § 67-5-501(3), and is not used in a context that requires diverging from the definition of “agriculture” in Tenn. Code Ann. § 1-3-105. Therefore, the definition of “agriculture” in Tenn. Code Ann. § 1-3-105(2)(A) applies to define “agriculture” as it is used in the statutory definition of “Farm Property” in § 67-5-501(3). And because no “different definition is specifically made applicable” to the word “agriculture” in the definition of “Farm Property” in Tenn. Code Ann. § 67-5-501(3), the definition of “agriculture” in Tenn. Code Ann. § 43-1-113(b)(1) would also apply. Since the two applicable definitions are identical, there is no difficulty or conflict in applying them both, and it is unnecessary to determine which of the two code sections, if either, takes precedence over the other.

The property subclassifications in Article II, Section 28, of the Constitution would of course control any statutory definition. *See Williams v. Carr*, 218 Tenn. 564, 404 S.W.2d 522, 529 (1966) (“[T]he Constitution is the superior law”). While the General Assembly has broad power to define the property that falls within each class or subclass, it may not craft a definition that is inconsistent with the inherent meaning of the words used in the Constitution.

HERBERT H. SLATERY III
Attorney General and Reporter

ANDRÉE SOPHIA BLUMSTEIN
Solicitor General

JAMES P. URBAN
Assistant Attorney General

Requested by:

The Honorable Mike Bell
Tennessee State Senator
309 War Memorial Building
Nashville, TN 37243