

## Important – Changes to 2021 statement

**Law change.** The 2021 North Dakota Legislature changed the law governing the farm residence property tax exemption for exemption applications filed for property tax years 2022 and after. For purposes of calculating the farm gross income ratio on the 2021 Statement of Farm Gross Income, the total gross income from both farm and nonfarm sources (on line 25) is adjusted to remove any gain from the sale or exchange of qualifying farm machinery. See the instructions for line 26 on the statement.

**Instructional changes—Lines 21, 22, and 30.** Changes were made to the instructions for lines 21, 22, and 30 to provide additional guidance in determining the amount of farm and non-farm gross income derived from partnerships, S corporations, estates, and trusts.

## General instructions

### Purpose of form

To qualify as an active farmer for purposes of the farm residence property tax exemption under N.D.C.C. § 57-02-08(15)(b), the individual occupying the residence must satisfy certain requirements. One of the requirements is that 66% or more of the occupant's total annual gross income must be from farming activities in one of the two calendar years preceding the year for which the exemption is claimed. The statute requires the occupant to complete and provide to the county a Statement of Farm Gross Income for one of the two preceding years to state and demonstrate compliance with the farm gross income requirement.

**Note: The farm residence exemption must be renewed each year to continue the exemption, which requires the submission of a new application each year. A Statement of Farm Gross Income must be submitted with each year's application form.**

**Spouse's income.** If the occupant is married, the spouse's gross income must be included for purposes of the farm gross income requirement. This applies whether they file joint or separate federal income tax returns.

**Occupant other than property owner.** If the occupant is someone other than the property owner, the property owner must complete and submit the application for the exemption, but the occupant must complete and submit the Statement of Farm Gross Income.

**Example 1:** If claiming the farm residence exemption for the 2022 property tax year, the occupant must complete and provide a Statement of Farm Gross Income for either the 2020 or 2021 calendar year. If the farm gross income requirement is satisfied based on income information for the 2021 calendar year, a Statement of Farm Gross Income needs to be filed for only the 2021 calendar year; a statement does not have to be filed for the 2020 calendar year.

**Example 2:** Same as Example 1, except that the occupant is unable to satisfy the farm gross income requirement based on the 2021 calendar year income information. In this case, eligibility for the exemption will depend on whether the occupant is able to satisfy the requirement using the income information for the 2020 calendar year.

### Use the proper year's form

The information needed to complete the Statement of Farm Gross Income is derived from the occupant's Form 1040 or Form 1040-SR, U.S. Individual Income Tax Return, filed for the same year for which the statement is being completed. Be sure to use the Statement of Farm Gross Income corresponding to the tax year used to comply with the farm gross income requirement. **If possible, use the MORE RECENT of the two calendar years preceding the year for which the exemption is being claimed to show compliance.**

**Example 3:** If applying for the farm residence exemption for the 2022 property tax year, and if the income

information from the 2021 federal income tax return supports compliance with the farm gross income requirement, complete and file the 2021 Statement of Farm Gross Income.

**Example 4:** Same as Example 3, except that the income information from the 2021 federal income tax return does not support compliance with the farm gross income requirement. In this case, eligibility for the exemption will depend on whether the occupant is able to satisfy the requirement using the income information from the 2020 federal income tax return. If it does, complete and file the 2020 Statement of Farm Gross Income.

### Farm gross income requirement

To meet the farm gross income requirement, 66% or more of the occupant's annual gross income must be from farming activities in either of the two calendar years preceding the year for which the exemption is being applied for.

### Definitions

For purposes of the farm gross income requirement, the following definitions apply:

- "Gross income" means gross income as defined under the federal Internal Revenue Code.

This generally means income received in the form of money, goods, property, and services that is not exempt from tax that is reportable on the federal income tax return. In the case of a business, it means the amount of gross income received before any business expenses are subtracted. In the case of the sale or exchange of property, the gain from the sale or exchange is included in gross income.

**Qualifying farm machinery adjustment.** See the specific line instructions for line 26 on the statement for an adjustment that may be made to reduce gross income by any gain from the sale or exchange of qualifying farm machinery.

- “Gross income from farming activities” means gross income from farming as defined for purposes of determining if an individual is a farmer for purposes of the special federal estimated income tax payment rules for farmers under Internal Revenue Code § 6654.

This generally means income from cultivating the soil or raising agricultural commodities.

Gross income from farming activities *does not* include (1) wages received as a farm employee, (2) income received from contract grain harvesting and hauling using workers and machines furnished by the applicant, or (3) gains from the sale or exchange of farmland and depreciable farm machinery and equipment.

**Federal definitions.** For more information on what is included in gross income and gross income from farming activities, see “Special Estimated Tax Rules For Farmers” in IRS Publication 225, *Farmer’s Tax Guide*.

### When and where to file

Submit the completed Statement of Farm Gross Income with the *Application For Property Tax Exemption of a Farm Residence*, which is due on or before February 1 of the year for which the exemption is claimed. If for some reason the statement cannot be filed with the application form by February 1, it must be submitted no later than March 31 of the year for which the exemption is claimed.

**Example 5:** *If applying for the farm residence exemption for the 2022 property tax year, file the Statement of Farm Gross Income with the Application For Property Tax Exemption of a Farm Residence that is due by February 1, 2022. Alternatively, the Statement of Farm Gross Income may be submitted separately from the application by March 31, 2022.*

Submit the completed *Statement of Gross Income* with the assessor’s office where the application for the farm residence property tax exemption is filed.

**Late filed statement.** If a Statement of Farm Gross Income is not filed by March 31, resulting in the denial of the exemption, an applicant may apply for an abatement under N.D.C.C. ch. 57-23, by filing an Application for Abatement or Refund of Taxes with the county auditor.

### Specific line instructions

**IMPORTANT—These specific line instructions only apply to the 2021 Statement of Farm Gross Income. The amounts provided on the 2021 statement must match the amounts from the 2021 federal income tax return used to determine if an individual is a farmer for purposes of the special federal estimated income tax rules for farmers under Internal Revenue Code § 6654.**

### Occupant’s total gross income from both farm and nonfarm sources

#### Lines 6 through 24

Enter the gross income from all sources, both farm and nonfarm, from the occupant’s 2021 Form 1040 or 1040-SR, U.S. Individual Income Tax Return. For guidance, the federal form and line number on which the gross income is reported on the federal return is provided on each line of the statement. If the occupant is married, the spouse’s gross income must be included whether they file joint or separate federal income tax returns.

#### Lines 12 and 15 Capital gains and gains from Form 4797

Only include gains from the sale or exchange of property. Do not include any loss. If the amount on the federal return is a net amount that includes both gains and losses, the amount must be adjusted to remove the losses.

**Important:** All gains reported on the federal return must be included on line 12 or line 15 of the statement. See the instructions to line 26 for an adjustment for gains from the sale or exchange of qualifying farm machinery.

#### Line 17 Total other income

If the amount on Form 1040 or 1040-SR, Schedule 1, line 9 (Total other income), includes a net operating loss, the amount must be adjusted to remove the net operating loss before entering it on line 17 of the statement.

#### Line 21 Partnerships and S corporations

Enter on this line the gross income (both farm and nonfarm) included in the amount entered on **Schedule E, Part II, line 32**. The amount on Schedule E, Part II, line 32, is not a gross income amount; rather, it is a net amount consisting of the taxpayer’s share of gross income, losses, and deductions received from partnerships and S corporations. Determining the amount of gross income included in the amounts from a partnership or S corporation will generally require contacting the partnership or S corporation directly to request the taxpayer’s share of gross income from it.

**Note:** In the case of a partnership, it may be possible to determine the total gross income from information on the taxpayer’s **Schedule K-1 (Form 1065) if there are amounts shown in Box 14, Self-employment earnings (loss)**, with the Codes B and C. The Code B amount is the taxpayer’s share of gross farming or fishing income. The Code C amount is the partner’s share of gross non-farm income. Combine the Code B and Code C amounts to determine the total gross income from the partnership.

**Important:** To avoid duplication of numbers, do not enter on line 21 gross income items from a partnership or S corporation reported on federal forms other than Schedule E, which are reported on other lines of the statement.

#### Line 22 Estates and trusts

Enter on this line gross income from an estate or trust included in the amount entered on Schedule E, Part III, line 37. The amount on Schedule E, Part III, line 37, is not a gross income amount; rather, it is a net amount consisting of the taxpayer’s share of gross income, losses,

and deductions received from estates and trusts. Determining the amount of gross income included in the amounts from an estate or trust will generally require contacting the estate or trust directly to request the taxpayer's share of gross income from it.

**Important:** To avoid duplication of numbers, do not enter on line 22 gross income items from an estate or trust reported on federal forms other than Schedule E, which are entered on other lines of the statement.

**Line 26**

**Adjustment for gains from sale or exchange of farm machinery**

Enter on this line any gain from the sale or exchange of farm machinery included in the amounts, if any, reported on line 12 (capital gains) and line 15 (gains from Form 4797).

“Farm machinery” means vehicular implements and attachment units designed and sold for direct use in planting, cultivating, or harvesting farm products, or used in connection with the production of agricultural produce or products, livestock, or poultry on farms, which are operated, drawn, or propelled by motor or animal power. Generally, this includes farm machinery that qualifies for either (1) the new farm machinery 3 percent gross receipts tax or (2) the used farm machinery gross receipts tax exemption under North Dakota law. *See page 4 of these instructions for a list of qualifying farm machinery.*

“Farm machinery” *does not* include vehicular implements operated wholly by hand or a motor vehicle required to be registered under North Dakota law and subject to North Dakota's motor vehicle excise tax, including any vehicle that otherwise would be subject to this tax if not specifically exempted from it by law. *See page 4 of these instructions for a list of items that DO NOT qualify as farm machinery.*

**Occupant's gross income from farming activities**

**Lines 29 through 31**

Enter the gross income from farming activities from the occupant's 2021 Form 1040 or 1040-SR, U.S. Individual Income Tax Return. For guidance, the federal form and line number on which the gross income is reported on the federal return is provided on each line of the statement. If the occupant is married, the spouse's gross income from farming activities must be included whether they file joint or separate federal income tax returns.

**Line 30**

**Gross farm income from passthrough entities and Form 4835**

Enter the amount from Schedule E (Form 1040), Part V, line 42. There should be an amount on this line of the federal return if the taxpayer received farm gross income from a partnership, S corporation, estate, or trust, or reported income on Form 4835. In the case of a partnership, S corporation, estate, or trust, the entity is required to report the taxpayer's share of farm gross as follows:

- If a partnership, see Schedule K-1 (Form 1065), Box 14, Code B.
- If an S corporation, see Schedule K-1 (Form 1120-S), Box 17, Code AD.
- If an estate or trust, see Schedule K-1 (Form 1041), Box 14, Code F.

**Note:** If an amount is entered on the Statement of Farm Gross Income, line 30, there must be an entry on the Statement of Farm Gross Income, line 21, line 22, and/or line 24.

**Line 31**

**Gains from sale or exchange of qualifying livestock**

Enter on this line gains reported on Form 4797 from the sale or exchange of livestock used for draft, breeding, sport, or dairy purposes. Do not include any loss.

**Do not** enter on this line a gain from the sale or exchange of farm machinery or any other type of asset.

There is no specific line on Form 4797 on which the net amount of gains from the sale or exchange of qualifying livestock is reported. These gains may be reported on Form 4797, Part I, line 2, or Part II, line 10, or Part III, line 19. If a gain reported in any of the three sections of the Form 4797 is from a partnership, S corporation, estate, or trust, and the type of property sold is not separately identified on the Schedule K-1 received from the entity, it may be necessary to contact the entity to obtain this information.

## Qualifying farm machinery

Following is a representative list of farm machinery, implements, and attachments which qualify as farm machinery for purposes of the adjustment on line 26 of the Statement of Farm Gross Income.

Aeration equipment (portable)	Feed rack (portable on wheels)	Header transport	Seeder
Aeration duct – grain dryer (portable)	Feed treater	Hopper bottom skid bins w/installed aeration	Silage blower
Applicator	Feed mixer	Land levelers and laser systems	Silage feeder
Bale wagon	Feed wagon	Land roller	Silage loader
Bin sweep (portable)	Fertilizer spreader	Livestock scale (portable)	Silage wagon
Chaff saver	Flax roller	Loader	Skid steer
Chaff spreader	Forage harvester	Loading chutes (portable)	Solar water circulators
Combine	Forage hay pickup	Manure pumps	Sprayers (self-propelled)
Combine header	Grain bin (portable on wheels)	Milk coolers	Spreader
Combine pickup	Grain cart	Milking machines (portable)	Squeeze chute (portable)
Corn picker	Grain cleaner (portable)	Milk unit washer	Stack liner
Corn planter	Grain drill	Mixer-feeder wagon	Stack mover
Corn sheller	Grain dryer	Plow	Stacker and hay cage
Creep feeder (w/wheels)	Grain heater	Potato conveyors (portable)	Stalk cutter
Crop divider	Grain vac	Potato digger	Straw chopper
Cultivator	Grain auger	Powered post drivers	Sunflower drum
Disc	Grain dryer fan (portable)	Powered posthole diggers	Sunflower pans
Drag	Grain screener	Rock picker	Sunflower header
Drill transport	Hammer mill	Roller mill	Swath roller
Farm wagons (non-highway use)	Harrow	Rotary cutter	Swather
Feed grinder	Hay baler	Rotary hoe	Swather transport
Feed mill (portable)	Hay crusher	Rotary tiller	Tillage hitch
	Hay mower	Seed cleaner	Torque limiter
	Head gate (portable)	Seed treater	Tractor
			Windrower

## Attachments

Attachments are items that are essential to and contribute directly to the operation of farm machinery. The following attachments are regarded as qualifying farm machinery:

After market lighting	Electronic wind monitor	Tractor-mounted
Agricultural global positioning system	Grain yield monitor	loader/scoop/grapple fork
Combine head	Planter monitoring system	Tractor-mounted snowplow or snow blower
Combine pick-up	Radar ground speed sensor	Tractor or combine cab
	Sprayer control	

## Non-qualifying farm machinery

The following items *do not* qualify as farm machinery for purposes of the adjustment on line 26 of the Statement of Farm Gross Income:

All-terrain vehicles (ATVs)—see <b>Motor Vehicles</b> below for exception	Dockers	Generator units	Mineral feeders
Bee cages	Feeder panels	GPS monthly fees/updates	Motor vehicles—see <b>Motor Vehicles</b> below
Bird cannons	Feeders or feed bunks	Grain bin (plastic)	Pig flooring (portable)
Brooder stoves	Fountains	Grain box	Portable chute
Cattle feeder	Free stall partitions	Grain drill filler (mounted on truck)	Portable corral
Cattle oiler	Garden tillers	Grain storage bins	Portable farrowing pens
Chicken & duck pluckers	Garden tractors	Horse trailers	Portable generators
Corral panels	Gasoline storage tanks	Lawn mowers	Portable moisture testers
	Gas powered engines	Livestock fountains	Portable pens
	Gate closers		

Potato truck boxes	Shop heaters	Stock tanks	Truck racks
Power washers	Snow blowers (except tractor mounted)	Tire changers	Udder washer
Service tanks (for transport of fuel to field)	Sprayers (high pressure-for cleaning equipment)	Trailer jacks	Waterers or water tank
Service tank pumps	Stock tank heaters	Truck box	Water well heaters
Shop equipment		Truck mounted tarp systems	Welding equipment
		Truck hoist	

**Motor vehicles**

Automobiles, trucks, and other motor vehicles, including trailers and semi-trailers, required to be titled and licensed for use on the streets and highways of North Dakota **do not** qualify as farm machinery. This also applies to any vehicle that otherwise would be subject to this tax if not specifically exempted from it by law.

All-terrain vehicles (ATVs) **do not** qualify as farm machinery. However, an ATV that was purchased with a mounted spray kit and is used exclusively in agricultural production is regarded as farm machinery.