

The “Top 10” Ag Law and Tax Developments of 2025: Number 8

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Soil nutrients. A tax strategy that has increased exponentially in recent years and for which there are no cases, no statute and no IRS guidance in the last 30 years is claiming a deduction for “residual” or “excess” fertilizer supply. With rising farmland values and fertilizer costs, many buyers are now allocating a portion of their purchase price to residual soil fertility – nutrients applied by the seller before the sale. This same practice applies to inherited land, where a portion of the fair market value at the date of death is allocated to existing nutrients. This strategy allows taxpayers to deduct or amortize the cost of the fertilizer rather than simply adding it to the land’s non-depreciable basis.

To successfully claim a deduction for residual fertility, the taxpayer must satisfy several criteria established by the only IRS guidance on the matter which is over 30 years old.¹

Beneficial Ownership: The taxpayer claiming the deduction must own the nutrients. This is rarely an issue when the land and fertilizer are purchased together.

- **Presence and Extent:** Taxpayers should hire an agronomist to conduct grid soil sampling before applying new fertilizer. This establishes the “excess” nutrients relative to a base fertility level for that soil type.
- **Measurement of Value:** The value of the excess fertility is determined by comparing the land’s actual nutrient levels to a baseline for comparable tracts.
- **Exhaustion:** For amortization (but not for a §180 deduction), the taxpayer must prove the fertilizer is being exhausted through crop production.

The deduction is based on the relative fair market value (FMV) of the assets. If the combined value of the land and the nutrients exceeds the actual purchase price, the cost must be allocated proportionally. While not strictly required, including the allocation in the purchase contract is the best defense against an audit. Taxpayers should maintain the agronomist’s report and a written summary of the exhaustion period. If the land is sold later, the portion of the sale price attributable to the previously deducted fertility is “recaptured” as ordinary income, not capital gains.

¹ (Tech. Adv. Memo. 9211007 (Dec. 3, 1991). IRS later reiterated the same points made in the Tech, Adv. Memo. in its 1995 Market Segment Specialization Program Paper on grain farmers. To successfully claim a deduction for residual fertility, the taxpayer must satisfy several criteria established by the only IRS guidance on the matter which is over 30 years old.

Associated issues. There are many associated issues based on the uncertainty that exists with the deduction. For example, if the deduction isn't taken for several years after the land is purchased/inherited, can the deduction be claimed for those "missed" years? Is it like using Form 3115 for depreciation? Is this really depreciation? Is it amortization? Is it depletion? If it's depletion, there's no Form, so where is it to be taken on the return? what happens if the farm tenant acquires the land and tries to claim a deduction for "residual" fertilizer? For starters, the tenant shouldn't do that because fertilizer has been deducted annually as applied. If the tenant still claims the deduction, there will be recapture.

So many unanswered questions. But, of the audits I am aware of on the issue, none have resulted in any change. The largest one involved a \$40 million deduction!

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