

# AG TAX TIDBITS

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## LAND CLEARING EXPENDITURES - DEDUCTIBILITY

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Some portions of the Internal Revenue Code are crystal clear and leave little room for differing interpretation, other portions are less clear and definitive. The Code and Regulations regarding the deductibility for the cost of removing brush, trees, and hedge rows fall into the latter category. The expenditure for removing trees and hedge rows from farm property may: 1) qualify as ordinary business expense that is currently deductible; 2) be required to be added to the basis of the land; 3) be added to the cost of an improvement and depreciated; or 4) qualify for deduction as soil and water conservation expense.

An expenditure is deductible as an ordinary expense if it maintains the productive capacity of the property rather than extending its productive life or preparing the property for a new productive use. The IRS Code provides that if an expenditure is not an ordinary expense, it must be capitalized into the related improvement or basis of the land unless it qualifies as a deductible soil and water conservation expense. Soil and water conservation expenditures are amounts spent to conserve soil and water, or to prevent erosion and are treatments consistent with a conservation plan approved by the Natural Resource Conservation Service or a comparable state agency.

Trimming trees along the border of a field so farm equipment can pass under trees without damaging equipment is an expenditure considered an ordinary and necessary business expense, thus deductible.

Now for a case that is a little more controversial. Farmer "A" purchased a farm that had been neglected for several years. Farmer "A" spent \$2,300 removing trees that had grown in the pastures. Can Farmer "A" claim this expenditure as an ordinary and deductible business expense? The answer is not definitive! At least one court case held the cost of restoring the land to its original use is a capital expenditure. However, many tax professionals believe it is permitted and proper to deduct the expense associated with the maintenance of pastures for routine brush clearing on property currently be utilized as pasture.

The removal of a hedgerow to facilitate the use of larger equipment is less controversial. This expenditure is not currently deductible, nor depreciable - the cost is added to the tax basis of the land.

However, if the hedgerow is removed to facilitate the building or rebuilding of a fence, the expenditure is considered a cost of the fence and can be recovered via depreciation.

Careful analysis of your unique circumstances will determine the proper tax code treatment of your expenditures involving the removal of brush, trees, and hedgerows. If your tax return happens to be audited, your description of the reason for the expenditure and the land usage before and after brush and tree removal will be critical.



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