

ATTENTION FARMLAND ASSESSED PROPERTY OWNERS

Please read the attached “advisory” document from the Tax Court pertaining to the recently enacted change in the Farmland Assessment law. The newly revised law goes into effect for the 2015 Tax Year. This law does not pertain to the farmland application and income data you were required to submit this year.

A full text of the law (Chapter 43) can be found on the Mendham Township website on the Tax Assessor’s webpage.

Any questions pertaining to this law can be directed to the Assessor’s Office after November 1.

New Law Advisory

Advisory No. 2013-11

Issued: May 8, 2013

To: Patrick DeAlmeida, P.J.T.C
Assignment Judges

Subject: P.L. 2013, c.43 - Revises certain provisions of farmland assessment law

Enacted: April 15, 2013

Effective: April 15, 2013, but applicable beginning 2015 tax year

Area of Law: Tax Court / Civil and Municipal (penalty enforcement only)

On April 15, 2013, Governor Christie signed S-589(4R) into law as P.L. 2013, c.43. The new law took effect on April 15, 2013, except that it is applicable to tax years commencing with tax year 2015. A copy of the law is attached and is available on the Judiciary Infonet under Legal Reference/Legislation Affecting Courts. Below is a summary of the law's various revisions to the "Farmland Assessment Act of 1964."

Farmland Assessment Standards

The law raises from \$500 to \$1,000 the minimum gross sales and payments standard for typical agricultural or horticultural lands to qualify for farmland assessment on the first five acres of land. Under the law, this change does not apply to: (1) woodland managed under a woodland management plan, which would continue as under current law, to qualify for farmland assessment with minimum gross sales and payments of \$500; or (2) land subject to a forest stewardship plan, which under current law, has no minimum income qualifying standard for farmland assessment. The law also provides that income imputed to land used for grazing is income imputed to cropland being used as pasture from time to time, as well as permanent pasture land used for grazing. (Section 2.a.).

Because the law establishes new and more stringent standards to qualify for farmland assessment, landowners who previously met the farmland assessment standards under the prior law but who cannot or do not meet the new standards are not be required to pay the roll-back tax at the time of disqualification provided they do not abandon the agricultural or horticultural use. However, because at that point the property would no longer be farmland assessed under the new standards, the landowner will then, and thereafter, be required to pay the full property taxes on the land just as any other property taxpayer who does not own farmland must do. (Section 2b).

The law allows for the continuation of farmland assessment under the former minimum income threshold for farms receiving payments from soil conservation programs until the expiration of the existing contract period for the farm. (Section 2.b.(3)).

This requires proof via a copy of the Soil Conservation Agreement. Without proof, the revised income requirements will apply

Farmland Assessment Guidelines

The new law requires that the State Board of Agriculture and the Department of Agriculture develop, and adopt as rules and regulations, within one year after the date of the law's enactment, guidelines describing generally accepted agricultural and horticultural practices, which may be used by municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials to assist them in determining whether land may be deemed to be in agricultural use, horticultural use, or actively devoted to agricultural or horticultural use pursuant to the "Farmland Assessment Act of 1964. In addition, the law requires that the Division of Taxation review the guidelines, and, upon approval, adopt them as rules and regulations.

Under the law, these guidelines are advisory, are to be distributed to, and may be used by, municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials to assist them in determining whether land may be deemed to be in agricultural use, horticultural use, or actively devoted to agricultural or horticultural use pursuant to the "Farmland Assessment Act of 1964." The law allows tax assessors to seek advice from the Division of Taxation, in consultation with the State Board of Agriculture and the Department of Agriculture, about particular farmland assessment applications and issues. (Section 1.a.).

Assessor Continuing Education

The new law requires the Division of Taxation, in conjunction with the Department of Agriculture, to provide a continuing education course to municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials explaining the guidelines. The law provides that, starting January 1, 2018, for any tax assessor of a municipality or county in which one or more Class 3B (Farm Qualified) properties are located, the tax assessor, as a condition of relicensing, must provide proof of having taken, at least once in the prior three years, the continuing education course. (Section 6).

State Farmland Evaluation Committee

The new law renames the State Farmland Evaluation Advisory Committee as the State Farmland Evaluation Committee (SFEC). The law requires the SFEC to review the minimum gross sales and payments standards for the first five acres every three years, or sooner at the call of the Secretary of Agriculture or the Director of the Division of Taxation and authorizes the SFEC to adopt regulations to raise the amount of those minimums for the first five acres to levels the committee determines appropriate after completing each such review. (Section 2.a.).

The law expands the SFEC to include two new members: a municipal tax assessor, county assessor, or county tax administrator, appointed by the Governor with the advice and consent of the Senate, and a farmer who is a current or former member of the State Board of Agriculture, also appointed by the Governor with the advice and consent of the Senate. Under the law, each appointed member will serve a term of three years and may be appointed to successive terms. (Section 5).

Farmland Assessment Application

The new law amends N.J.S.A. 54:4-23.14 to provide that the farmland assessment application form will:

- be prescribed by the Division of Taxation in consultation with the State Board of Agriculture;
- include a plain language recitation and explanation of the guidelines describing generally accepted agricultural and horticultural practices which are to be developed and adopted pursuant to the law; and
- be submitted with proofs of sales of agricultural or horticultural products, and of any other payments, fees, or imputed income received from the agricultural or horticultural use of the land, in the prior year, or clear evidence of anticipated gross sales, payments, fees, or imputed income, amounting to the minimum sum of \$1,000 for standard farmland, \$500 for managed woodland, or in either case, such sums as may be established by the SFEC as authorized under the law. (Section 4).

The law also requires applicants for farmland assessment under the forest stewardship program to provide certain documentation of compliance with the requirements of that program. (Section 4).

The law further provides that, in order for land to be deemed to be actively devoted to agricultural or horticultural use, the activity and use must be consistent with the guidelines developed and adopted by the Division of Taxation pursuant to subsection a. of section 1 of the law. (Section 2.a.).

The law requires the Director of the Division of Taxation to include with each farmland assessment application a letter or other document explaining any changes to the law, rules, regulations, and guidelines on farmland assessment that have occurred in the prior tax year and which would be newly in effect in the tax year for which the application is being submitted. (Section 4.e.).

Under the law, a landowner whose farm management unit is less than seven acres (formerly 10 acres) in size must submit a narrative and a sketch relating to the agricultural or horticultural uses on the farm management unit, including information on the number of acres that will be actively devoted to such uses. (Section 4.d.).

Guidelines to be developed over the course of 2013. The guidelines will focus on production values per acre based on cropland harvested, grazed, and pastured. Farmland used in connection with animals & livestock will also be evaluated on a unit per acre basis. You will be notified in writing once these guidelines have been adopted.

The law requires that the SFEC review the farmland assessment application form within one year of enactment of the law and every five years thereafter and make recommendations thereon to the Director of the Division of Taxation. (Section 5.d.).

Civil Penalty for Certain Misrepresentations on Assessment Application



The law provides that a landowner is subject to a civil penalty of up to \$5,000 for a gross and intentional misrepresentation on an assessment application. Any such civil penalty may be imposed and collected by the municipality, the county, or the State, with costs, in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Under the law, the Superior Court and the municipal courts have jurisdiction to enforce the penalty. The law provides that one-half of any civil penalties so collected by a municipality or county shall be dedicated and used by the municipality or county in administering and enforcing the provisions of the "Farmland Assessment Act of 1964," in the municipality or county. The remaining one-half of any civil penalties collected by a municipality or county shall be paid by the municipality or county to the State, and together with any civil penalties collected directly by the State, shall be dedicated and used by the Department of Agriculture and the Division of Taxation in administering and enforcing the provisions of P.L.1964, c.48 (the "Farmland Assessment Act of 1964"). (Section 4.b.).

Repealer

The new law repeals N.J.S.A. 54:4-23.13a (timely submission of applications to qualify for valuation, assessment and taxation as lands actively devoted to agricultural or horticultural use). (Section 7).

Kindly advise judges and staff of the new law as appropriate.

attachment

c: Glenn A. Grant

Municipal Division Presiding Judges

Directors

Assistant Directors

Clerks of the Court

Trial Court Administrators

Municipal Division Managers

Municipal Court

Directors and Administrators

Lynne E. Allsop

NOTE from the Assessor: Since the change in the income threshold is one of the primary focuses of this new legislation, the prior informal and inconsistent manner in which income proofs were supplied along with the FA-1 form will be under heavy scrutiny. Accordingly, ***beginning with next years farmland application (for Tax Year 2015)*** - I am requiring that all applicants **provide a copy of the "SCHEDULE F"** from the prior year's Federal Tax Return. While this alone will not satisfy the income requirement of CURRENT YEAR RECEIPTS - it will demonstrate that the receipts previously reported (in what ever manner they are reported) are in fact real and result in further submission to the government for separate tax related purposes.