Lowering Farm Taxes

by G. J. Skoda

Farmers typically identify taxes as one of the most significant factors affecting the future of their farming operations. They are affected by three major categories of taxes: the real estate/school tax; income tax; and estate tax.

This article addresses the real estate tax, which is typically three or four different taxes (Town, Village, County and School). These taxes are levied on the value of real property and are determined by local taxing jurisdictions. Their impacts on farmers and other landowners, however, are also affected by various exemption and tax benefit programs.

Real estate tax breaks for farmers began in the early 1970's with the New York State (NYS) Agricultural Districts law. The most significant gain for farmers took place in 1997 with the Farmers School Tax Refund Program. There are three distinct categories of breaks; tax refunds/credits, tax exemptions and reduced assessments; and each is dealt with separately below:

I - Tax Refunds and Credits

There are three (3) programs that can result in tax refunds for farmers. Applications for these, as well as all refunds and credits, are made through the preparation of a NYS income tax return.

A. Farm Property School Tax Credit (Form IT-217)

A very important tax relief program was included in the 1996 New York State Budget Bill and was modified in 1997 and 1998. As a result of those modifications, New York taxpayers whose federal gross income from farming equals at least two-thirds of excess federal gross income for the 1999 and future tax years, will be allowed a credit against personal income tax, or corporation franchise tax, equal to the school property taxes they paid on certain agricultural property. Gross income from farming includes gross farm income from Schedule F, gross farm rents (Form 4835) and gains from livestock (Form 4797). It also includes gross income from farming under a partnership, S corporation, estate or trust.

The tax credit is limited to 100% of the school taxes paid on a base acreage of qualified agricultural property plus 50% of the school taxes paid on land exceeding the base acreage. The current base acreage is 250 acres; and includes farm buildings. The credit is claimed against NYS personal income tax, corporate franchise tax, S corporation tax liabilities or LLC income tax liabilities. Refunds can be claimed or carried over.

Qualified agricultural property is land, located in New York State, that is used for agricultural production. The credit is not allowed for a farm lessee, as the operator must be the owner of the leased land. Lessors of farm land, however, may or may not qualify depending upon their qualifications as farm taxpayers. If agricultural property is converted to a non-qualified use, no credit is allowed that year and recapture is triggered for the previous two taxable years.

Recent legislation resulted in some changes in definitions that made more farmers eligible for the school property tax credit. Effective for the 1998 and future tax years, NYS taxpayers whose federal gross income from farming equals at least two-thirds of excess federal gross income are allowed to receive the School property tax credit. Previously, the credit was only available to those farmer households who made two-thirds of their total income from the farm operation and this disqualified many households with extra off-farm income. Excess federal gross income is federal gross income from all sources for the taxable year in excess of a special $30,000 subtraction. The special $30,000 subtraction can be earned income (wages, salaries, tips and items of gross income included in computation of net earnings from self employment), pension payments (Social Security), interest and dividends. For 1998 and thereafter, the federal gross income of a corporation may, likewise, be reduced by up to $30,000. Many retired farmers who rent their land can qualify after the $30,000 substraction. A special ruling, for this section of law, also now includes gross income from the production of honey, maple syrup and cider, and from the sale of wine from a licensed farm winery, in the term "federal gross income from farming."

If the modified NYS adjusted gross income of the taxpayer exceeds $100,000 the credit is phased out and completely lost at $150,000. Modified NYS adjusted gross income is the NYS gross income for the taxable year reduced by the principal paid on farm indebtedness during the tax year. Farm indebtedness is the debt incurred or refinanced that is secured by farm property, where the proceeds of the debt is used for expenditures incurred in the business of farming.

Effective for taxable years after January 1, 1999, the farmer's school tax credit has been expanded to farmers who pay school taxes under a contract to buy agricultural land. This means an eligible farmer, who is the actual property taxpayer on a contract for deed, can now claim the credit against NYS corporate franchise (income) tax and personal income tax.

B. New York State Investment Credit (NYIC Form IT-212)

New York State offers an investment tax credit for new business related capital expenses. The credit for farmers is 4% of the purchase price of qualified real estate, equipment, livestock and other tangible business property acquired, constructed, reconstructed or erected during the tax year. For corporations, the rate is 5% on the first $350,000,000 of qualified base and 4% on any excess.

Qualified real estate includes single purpose livestock structures (most barns); storages (silo's, manure and grain); fences and roadways; but not land or multi purpose buildings (garages, shops). This type of property must have a depreciation life of 5 or more years.

Qualified 3-year depreciation class property can also be used for the credit if kept in use for 3 years and will earn the full credit (over-the-road tractors, certain breeding livestock). Pick-up trucks do not qualify; heavy trucks do qualify. The credit can be used to offset NYS Income Tax in the year earned or can be carried forward for 10 years. There is no carryback, however. If property on which NYIC was taken is disposed of or removed from qualified use before its useful life or holding period ends, the credit is prorated and recaptured. However, there is a 12 year limit.

New businesses can receive a refund of unused NYIC. The election to claim a refund of unused NYIC can be made only once in one of the first four years. Therefore, tax management can be very important. A business is considered new during its first four years in New York State. The business cannot be of similar operation and ownership to a previously operated business for the refund.

Businesses that qualify for NYIC can also receive an employment incentive tax credit if they increase employees by more than 1% during the year. The credit is 1.5% of the investment credit base if the employment increase is less than 2%. It is 2% if the increase is between 2 and 3% and 2.5% if the increase is 3% or more for each of the two years following the taxable year in which NYIC was allowed. Effective January 1, 1998 this credit was expanded from corporations to sole proprietorships, partnerships and S-corporations. The credits are available in the years following the qualified increase in investment and expansion of employee numbers.

C. Real Property Tax Credit (Form IT-214)

Few farm or nonfarm real estate owners will qualify for this benefit because owners of real property valued in excess of $85,000 are excluded. Nevertheless, there are some very small agricultural operations that could take advantage of it. The requirements for 2004 tax year are as follows.

1) The household gross income limit is $18,000.

2) The maximum adjusted rent is an average of $450 a month. The taxpayer must occupy the same residence for 6 months or more to claim rent paid to qualify for the credit. Credit for renters is computed the same as for owners.

3) The real property tax credit is the lesser of the maximum credit determined from the table following or 50% of excess real property taxes. Taxpayers age 65 and older who elect to include the exempt amount of real property taxes will receive no more than 25% of excess real property taxes. Excess real property taxes are computed by multiplying household gross income times the applicable rate from the table following and deducting the answer from real property taxes. This tax credit is reduced by any other personal income tax credit to which the taxpayer is entitled.

Partial Table for Computing Real Property Tax Credit, 2004

Household Gross Income	Applicable Rate	Credit Allowed Under 65	Credit Allowed 65 & over
$0 - 3,000	0.035	$75-71	$375-341
3,001 - 5,000	0.040	69-67	324-307
5,001 - 7,000	0.045	65-63	290-273
7,001 - 9,000	0.050	61-59	256-239
9,001 -11,000	0.055	57-55	222-205
11,001 -14,000	0.060	53-49	188-154
14,001 -18,000	0.065	47-41	137 - 86

II - Real Estate Tax Exemptions

The following categories of Real Estate Tax Exemptions (explained below) are in place for farmers:

- New York State School Tax Relief (STAR)
- New Farm Buildings
- Commercial, Business or Industrial Property
- Reconstruction or Rehabilitation of Historic Barn
- New Orchards and Vineyards
- Complete Exemptions on Certain Structures

A. New York State School Tax Relief ("STAR Program" - Form RP 425)

This program provides a partial exemption from school property taxes for owner-occupied primary residences. Senior citizen property owners must be 65 years of age or older, and their income on their latest available federal or state income tax return cannot exceed $62,100 adjusted gross income reduced by any distributions from an IRA or individual retirement annuity. The "enhanced" STAR senior citizen program amends the original phased-in tax benefits to provide seniors an immediate $50,000 exemption off the full value of their property. The eligible senior citizen must apply with the local assessor for the "enhanced" STAR exemption by March 1 in most towns. This is the "taxable status date" but deadlines vary so most taxpayers should apply earlier.

Age requirements were amended in 1999. Previously, to qualify for the enhanced exemption all owners had to have satisfied the age requirement excepting the spouse of a 65 year old owner. Age is determined on December 31. However, for the 2000-2001 school year, only one of the owners must be 65 years old for residential property owned by siblings. Also, in the case of a property owned by a husband and wife, one of whom is at least 65, the exemption will not be rescinded solely on the death of the older spouse if the other is at least 62 years old.

The "basic" STAR program is available to all primary residence homeowners and farmers regardless of age, starting with school year 1999-2000. An assessment exemption has been phased in from $10,000 to $30,000 for the school year 2001-02. An owner, to be eligible, must own and live in a one, two or three-family residence, mobile home, condominium, cooperative apartment or farm house. The exemption for persons with the disabilities and limited incomes will be deducted from assessed value before applying the STAR exemption. Farm dwellings owned by a corporation or partnership qualify if they constitute the primary residences of sareholders or partners.

STAR Property Tax Exemption Table

Eligible Senior CitizenHomeowners	$50,000*
All Primary Residence Homeowners	$30,000*

* Adjusted for local equalization rates

B. New Farm Buildings (Form RP 483)

For newly constructed or reconstructed agricultural structures, New York's Real Property Tax Law (Section 483) allows a 10-year property tax exemption. Application for the exemption must be made within one year after the completion of such construction. The agricultural structures and buildings are exempt from any increase in the property's assessed value resulting from the improvement.

Once granted, the exemption continues automatically for ten years. The exemption terminates before the ten-year period if (1) the building or structure ceases to be used for farming operations, or (2) the building or structure or land is converted to a non-agricultural or non-horticultural use.

Eligibility is determined by the assessor or board of assessors with whom the application is filed. If denied, the applicant has the right to an administrative review by the Board of Assessment Review. The following requirements must be met.

1) The structure or building must be essential to the operation of lands actively devoted to agricultural or horticultural use.

2) The structure or building must be actually used and occupied to carry out the agricultural or horticultural operations.

3) The farmland must be actually used in bona fide agricultural or horticultural production carried on for profit.

4) The farmland must be not less than 5 acres in area.

5) An application for exemption must be filed within one year of completion of construction.

A structure, building or any portion qualifies for the exemption when it is used directly and exclusively either: (1) in the raising and production for sale of agricultural or horticultural commodities, or necessary for their storage for sale at a future time; or (2) to provide housing for regular and essential employees and their immediate families who are primarily employed in connection with the operation of lands actively devoted to agricultural and horticultural use.

A structure, building or any portion cannot qualify if it is used for: (1) the processing of agricultural and horticultural commodities; (2) the retail merchandising of such commodities; (3) the storage of commodities for personal consumption by the application; or (4) the residence of the applicant or his immediate family. The word "agricultural" means the art or science of cultivating the ground, the raising and harvesting of crops and the feeding, breeding and management of livestock, poultry, or horses. The traditional meaning of the word "horticultural" is the cultivation of a garden or orchard, the science and art of growing fruits, vegetables, and flowers or ornamental plants from seed, cutting, or rootstock.

A farm commodity is processed whenever something is done to the commodity to prepare it for market, as distinguished from raising or producing it. For example, a building on a dairy farm in which cows are fed and milked would qualify as used directly and exclusively in the raising and production for sale of milk. However, buildings used for processing milk -- in which the milk is pasteurized or put into containers that are ultimately sold to the consumer -- would not qualify nor would a winery. The slaughtering of cattle is processing, as is the cleaning, sorting and packaging of fruits and vegetables. When the processing carried on in a building is only incidental to the main use of the building or the building is used for processing only on a limited basis, the building may be eligible for the exemption.

Any agricultural structure or portion that is used for the retail sale of an agricultural or horticultural product cannot qualify. A roadside stand or any store or building in which agricultural products are sold to the public is not eligible for the exemption.

If only a portion of a building meets the requirements of the statute, then only that portion is eligible for the exemption. If a single building or structure combines both a farm use and a non farm use but the activities are so commingled that the portions devoted to each use cannot be separated, the building would not qualify since the law requires that the building or portion be exclusively used for agricultural purposes. However, when the "non farm use" carried on in a building is only incidental to the main use of the building or the building is used for "non farm use" only on a limited basis, then the building may qualify for the exemption.

Some counties have developed a special IDA tax break for added-value industrial or farm processing and marketing buildings excepted by this program. In most taxing jurisdictions these buildings would qualify for RP 485-b - Exemption for Commercial, Business or Industrial Real Estate (see below).

C. Exemption for Commercial, Business or Industrial Real Property (Form 485-b)

Farm processing and marketing buildings that do not qualify for the 10 year exemption on Form RP 483 qualify for the 485-b program unless the town or school district has opted out of this program (most remain eligible).

The building receives an exemption for 10 years under this program. The first year 50% of the increase in assessed value attributable to the improvement is exempted from taxation. The exemption then decreases 5% in each of the next nine years. The improvement, therefore does not become fully taxable until the 11th year.

The 485-b program covers all taxes except pertaining to fire districts. Improvements must exceed $10,000 unless a higher minimum has been set by local law. The exemption continues as long as eligibility requirements continue to be satisfied.

The Town of Brant is currently 485-b eligible according to the New York State Office of Real Property Tax Services.

It must also be noted that the Erie County Industrial Development Agency offers a tax abatement program to qualified industries that can include food processing and other agri-businesses. This program gives a 80% abatement for the first two years, 70% for the next two years, 60% for five years and then 50% until all improvements involved fully taxed in the sixteenth year. This is much better than the 485-b program for those businesses that are eligible. It requires a major investment to justify the legal and other fees involved in obtaining this particular benefit but with the real property tax abatements also come sales and mortgage tax abatements in most instances.

D. Reconstruction or Rehabilitation of Historic Barns (Form RP 483-b)

A barn must have been at least partially completed prior to 1936 and originally designed and used for storing farm equipment, agricultural products, or for housing livestock to qualify as a historic barn for this exemption. The increase in assessed value due to reconstruction or rehabilitation is totally exempt in the first year and the exemption is phased-out over the next succeeding nine years by 10% per year.

A major limiting factor of this program is that the county, city, town and villages must adopt local laws to permit the exemption. School districts must also authorize the exemption by resolution.

E. New Orchards and Vineyards (Form RP 305-c)

This law further exempts new orchards and vineyards from taxation. It applies on top of Agricultural Assessment benefits (see later discussion).

Newly planted or replanted orchards or vineyards received 100% exemption in the first four years following planting. A maximum of 20% of the total orchard or vineyard acreage may be eligible in any given year. Disaster areas get special treatment.

F. Complete Exemptions on Certain Structures

1) Silo's, Grain Storages, Bulk Tanks and Manure Facilities (Form RP483-a)

Adopted by New York State in 1996, this law exempts farm silos, farm feed grain storage bins, commodity sheds, bulk milk tanks and coolers (bulk heads), and manure storage and handling facilities from all taxation, special ad valorem levies and special assessments. There is no requirement that the structures be in current use by a farmer.

2) Temporary Greenhouses (Form RP 483-c)

Adopted in 1998, this law exempts temporary greenhouses used for agricultural production from full real property taxation, special ad valorem levies and special assessments. Once the exemption has been granted, the exemption continues provided the eligibility requirements continue to be satisfied. It is not necessary to reapply for the exemption after the initial year in order for the exemption to continue.

To qualify, the temporary greenhouse must be specialized agricultural equipment having a framework covered with demountable polyethylene or polypropylene material or materials of a polyethylene or polypropylene nature. The equipment must be specifically designed and constructed and used for agricultural production. The temporary greenhouse may include, but is not limited to, the use of heating devices, water and electrical utilities and embedded supporting poles. Greenhouse cattle barns and storages also appear to qualify. A number of assessors have agreed to this interpretation.

III - Reduced Assessments on Farm and Forestry Land

A. Agricultural Value Assessment on Farmland (Form RP 305)

One of the provisions of the New York State Agricultural District Law allows owners of eligible land to file for Agricultural Value Assessment on their property. This establishes the taxable value of the land based on its soil quality and agricultural value rather than market value or other locally determined criteria.

The following criteria must be met to be eligible for an Agricultural Value Assessment.

1) The land must be in a state certified Agricultural District or be placed under Individual Agricultural Commitment.
2) The land must have been farmed for the last two years.
3) A minimum of 7 acres must be involved a (higher gross applies if less land is involved).
4) The farmer must make at least $10,000 in gross sales from crops or animals produced on the land or $50,000 in gross sales on acreage under 7 acres.
5) Renters must have a 5 year lease agreement and be renting to a farmer who makes $10,000 from his total operation.
6) Crops may include field crops, vegetables, fruits, and horticultural specialties such as nursery stock, flowers, ornamentals and Christmas trees, and maple sap.
7) Livestock and livestock products may include cattle, sheep, hogs, goats, horses, poultry, ratites, farmed deer, farmed buffalo, fur bearing animals, milk, eggs, fur, and honey.
8) Aquaculture products (added in 1992) may include fish, fish products, water plants, and shellfish.
9) Commercial horse boarding was made eligible in 1994. This category, however, requires local legislative approval. Most counties have provided such approval. Thoroughbred horse breeder payments qualify as "gross sales value."
10) Fifty (50) acres of woodland can be included.
11) Support land including ponds qualify.
12) This program does not include buildings.
13) Federal Conservation Reserve Program land is eligible and payments qualify as income.
14) First year farms (added in 2003 or 2004) with not less than 7 acres qualify if annual gross sales value is $10,000 or more. Farms less than 7 acres must gross $50,000 annually to qualify. Land under a production facility is used in this calculation.

Agricultural (Ag) Value Assessment must be applied for each year by the taxable status date, which is March 1. The initial application is somewhat involved. A farmer must obtain copies of tax parcel maps from either the Real Property Tax Office or from the local Town Clerk to begin the process of filing for Ag Value Assessment. An appointment with the Soil and Water Conservation District Office to have a Soil Group Worksheet completed is the next step. This is a listing of the various soil types on your property along with the acreage of each. Since the Ag Value Assessment is based on the relative productivity of soils, this is critical information. An RP 305 Form must be completed along with the Soil Group Worksheet and returned to the Town Assessor. These forms are available through the local assessor or Cornell Cooperative Extension.

Provided there are no additions or deletions in property, an RP 305-r Form should be filed for subsequent years. This is a short form that reports any changes in the status of your land or farming operation.

There are certain penalty payments incurred when land is converted to non-agriculture use. The penalty is charged to the converter of the land and is assessed only to that portion of the parcel taken out of production. The seller and converter may not necessarily be the same person and the act of selling does not automatically constitute a conversion. The current penalty is five (5) times the amount of taxes saved during the last year of participation, plus a six percent interest charge compounded annually for each year during the last five years that the land received an ag value assessment. Wind turbines (added 2004) located on farmland do not create a conversion penalty.

B. Woodlots over 50 Acres (Form 480-a)

This program reduces the assessed value of woodland by 80%. It requires a 10 year commitment renewed annually along with a management plan that requires forestry management.

Woodlot owners in the program must thin and/or harvest based on the plan written by a certified forester and approved by the Department of Environmental Conservation. A six percent (6%) stumpage fee is paid to the town when a harvest takes place. There is a rollback penalty for conversion or if the management plan is not followed. Overall, this program requires a substantial long term commitment (30+ years) to benefit from the tax savings.

More information about these program, forms and updates are available from:

- Your town or county assessor
- Your county Department of Real Property Tax Services
- Cornell Cooperative Extension in your county
- New York State Offices of Real Property Services
  16 Sheridan Avenue,
  Albany, NY 12210
  www.orps.state.ny.us

This summary explanation of tax benefits related to farming has been prepared by Gerald J. Skoda, an Agricultural Consultant with an extensive background in farm taxation and farm income tax preparation. It was edited by Thomas J. Shepstone, AICP of Shepstone Management Company (**www.shepstone.net**), an agricultural, planning and research consulting firm that provides service thoughout New York, Pennsylvania and the Northeast. A project website is located at **www.shepstone.net/Brant**. Also included are excerpts from New York State Office of Real Property Services publications.

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