

Digest of Agriculture & Forest Tax Abatement Laws in New York State

A Publication of the NYS Legislative Commission on Rural Resources

Digest of New York's Agriculture and Forest Related Tax Abatement Laws – 2006

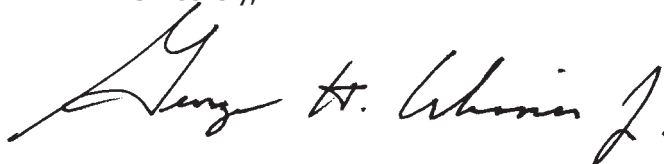
The NYS Legislative Commission on Rural Resources is pleased to present this updated digest of New York agriculture and forest-related tax abatement laws as of December 2006. In response to requests for information from professionals in agriculture, this document is meant to serve primarily as a resource for those involved with the agricultural sector in New York. We have also included information on forest tax abatement (many farmers own wood lots) that may be of use to professionals and landowners in the forestry sector. Our hope is to increase awareness of applicable state laws regarding agricultural and forestry tax abatement. The digest is by no means meant to be an exhaustive resource of New York state tax law, but instead provides a concise listing of relevant laws in a short summary format.

The Rural Resources Commission received valuable technical assistance in this effort from the New York Farm Bureau. In addition, as noted at the end of the digest, both the New York State Office of Real Property Services and the New York State Department of Taxation and Finance, are excellent resources for those seeking more in-depth tax information related to agriculture and forest lands and improvements.

Members of the Commission would appreciate any feedback readers and users of this digest are able to share for future updates. It is our intention to continue to update the guide as new tax abatement provisions are enacted into law in the future. You may contact the Commission at the address shown on the back cover of this document.

On behalf of my colleagues on the Rural Resources Commission, I hope you find this digest useful. Agriculture and forestry are very important sectors of the economy of our great state and help to make New York a quality place to live and work. Getting the word out about state laws which might assist those of you working in these fields, will hopefully, in some small measure, add to the vitality and viability of farms, forestry and agribusinesses in New York.

Sincerely,



Senator George H. Winner, Jr., Chairman
Rural Resources Commission

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Digest of Agriculture & Forest Related Tax Relief Laws in New York State

Real Estate Tax Exempt Private Property:

Agricultural Societies (Real Property Tax Law §450)

Exempts real property owned by an agricultural society (including the Grange) and permanently used by it for a meeting hall or exhibition, from taxation and from special ad valorem levies and special assessments.

Forest and Reforested Land (Real Property Tax Law §480)

Real property certified as eligible forest or reforested land by NYS Department of Environmental Conservation prior to September 1, 1974, 100% exempt from property taxation to the extent of the value of the forest growth on the property, when there is a minimum of 15 acres of forest land and other property use requirements are met. No exemption allowed for ad valorem levies or special assessments. So long as forest growth remains uncut, the remaining land and any buildings or structures are eligible for a limited assessment. At least 30 days prior to cutting of the forest growth, owner must notify assessor of planned cutting, and prior to removal from the premises must pay assessor a yield tax of 6% of the timber stumpage value, as determined by assessor.

Taxation of Forest Land (Real Property Tax Law §480-a)

Private real property certified as an eligible tract of forest land by NYS Department of Environmental Conservation, on or after September 1, 1974 is partially tax exempt, but is liable for ad valorem levies and special assessments. A minimum of 50 contiguous acres of forest crop is required. Exemption is limited to the lesser of either 80% of assessed value of eligible acreage or amount by which assessed value exceeds \$40, multiplied by the latest state equalization rate times the number of eligible acres. To qualify, owner must annually commit to continued forest crop production for next ten years under an approved management plan. Certain penalty taxes may be invoked for noncompliance. At least 30 days prior to cutting of a forest crop, owner must give notice to NYS Department of Environmental Conservation. Cut timber is subject to a 6% yield tax of its stumpage value. Lands cut within three years of application for certification are ineligible.

How to Use the Digest

The goal of the digest is to provide awareness of "tax friendly" laws available in New York for our agricultural sector. The digest is arranged by topic area rather than by reference to a particular state law, for easy reference by individuals who might make use of this digest. A brief synopsis of each tax abatement law is also given, with the expectation that those seeking more in-depth information on a particular law and its applicability to their individual situation, should consult with additional resources.

It is strongly advised that those seeking to use the tax abatement laws listed in this digest confer with a tax advisor and with the New York State Office of Real Property Services (ORPS) or the New York State Department of Taxation and Finance. Both state offices have excellent web sites which are listed at the end of the digest.

Real Estate Tax Exempt Private Property:

Taxation of Land Used for Agricultural Production (Real Property Tax Law §481)

Special taxation or “agricultural assessment” of land used in agricultural production under the Agricultural and Markets law, article 25 AA, section 301 defined as at least seven acres of land used in such production for the preceding two years with an average gross sales value of \$10,000 or more. Requires an annual application with the local assessor. Land outside an agricultural district is eligible, but must be encumbered for eight instead of five years. Eligibility is determined by the local assessing unit. Rental land is also eligible, but the exemption does not apply to buildings. Landowner’s first step in applying for assessment is to go to the County Soil and Water Conservation District office.

Quarantined Lands (Real Property Tax Law §482)

Discretionary tax exemption which may be granted by the board of supervisors of a county, or the financial board of a city over lands which the state takes possession of for the purpose of enforcing a quarantine or to fumigate or treat the lands. Such lands will still be subject to school tax levies and special ad valorem levies and special assessments.

Exemption from Taxation of Newly Constructed and Reconstructed Structures and Buildings Essential to the Operation of Agricultural and Horticultural Operations (including the raising, breeding and boarding of livestock and horses) (Real Property Tax Law §483)

Tax exemption for no more than ten years, to extent of any increase in value to the land by reason of the construction or reconstruction. Property used for agriculture or horticulture must be at least five acres, and the construction or reconstruction must occur or have occurred after January 1, 1969 and before January 1, 2009. The exemption includes structures and buildings used in the *production*, but not the *sale*, of maple syrup, and to indoor exercise areas for the training and exercise of horses, although it does not apply to “riding academies or dude ranches”. If the land or buildings are converted to a non agricultural or horticultural use during the ten year period, roll back taxes will be computed for the period during which the exemption was allowed. This partial exemption applies to town, county and school taxes, but does not apply to special ad valorem levies and special assessments. Application must be submitted to local assessing office within first year of construction, and then continues automatically for ten years.

Limited Use Agricultural Structures; Including Farm Silos, Farm Feed Grain Storage Bins, Commodity Sheds, Bulk Milk Tanks and Coolers, and Manure Storage and Handling Facilities (Real Property Tax Law §483-a)

A one time application provides a permanent exemption from real estate taxes as well as from special ad valorem levies and special assessments. Application is filed at any time with the local assessing office by the taxable status date.

Historic Barns (Real Property Tax Law §483-b)

Upon the adoption of a local law by a county, city, town, village or school district, a one year exemption for historic barns is allowed, on the increase in assessed value attributable to the reconstruction or rehabilitation. The exemption may be continued for an additional nine years, but shall decrease by 10% for each of the remaining nine years. The historic barn may not be used as a residence and may not be receiving an exemption under §483 of the real property tax law (see above: structures essential to agricultural operation). A historic barn is one constructed before 1936 and used for storing farm equipment, agricultural products or for housing livestock. Applications must be filed with the local assessing office before the taxable status date.

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Real Estate Tax Exempt Private Property:

Temporary Greenhouses (Real Property Tax Law §483-c)

Allows for a permanent exemption from property taxes, special ad valorem levies and special assessments for temporary greenhouses having a framework covered with mountable polyethylene or polypropylene materials designed and used for agricultural production. May include, but is not limited to, heating devices, water and electrical utilities and embedded support poles. Application is made to the local assessing office on or before the taxable status date, and once granted, no renewal application is necessary.

Farm or Food Processing Labor Camps or Commissaries (Real Property Tax Law §483-d)

Allows for an exemption from property taxes, special ad valorem levies and special assessments for camps or commissaries and ancillary structures and land, as defined in article seven of the labor law, used to improve health, living and working conditions for farm laborers, so long as these improvements comply with applicable standards determined by NYS Department of Environmental Conservation and NYS Department of Health and the state building code. A one time application may be filed with the local assessing office, and once approved, no renewal application is necessary, so long as the property remains in compliance with applicable standards.

Business Investment Exemption (Real Property Tax Law §485-b)

Allows for a ten year partial exemption from the increased value for property taxes and special ad valorem levies (except those special levies for fire districts), for construction, alteration, installation or improvement to business property after July 1, 1976. The first year exemption is 50%, with the exemption decreasing 5% in each of the succeeding nine years. Application must be made within one year of completion of the business improvements. Improvements must be for the buying, selling, storing or developing of goods or services or the manufacture or assembly of goods or raw materials (e.g. includes wineries and farmers markets, but would not apply to the providing of accommodations such as with a bed and breakfast). Other restrictions may apply depending on applicable local laws. Application is made to the local assessing office.

Exemption From Taxation for Certain Solar or Wind Energy Systems or Farm Waste Energy Systems (Real Property Tax Law §487)

An exemption is granted for a period of fifteen years to the extent of any increase in the value of the property by reason of the inclusion of the wind energy, solar, or farm waste energy system. Systems must have been constructed prior to January 1, 1988, or between January 1, 1991 and January 1, 2011. A county, city, town, village or school district may, however, pass a local law to provide that no such exemption shall be applicable in that jurisdiction, for any system constructed after January 1, 1991, or the effective date of the local law, whichever is later. A local law may also be passed requiring a contract for payments in lieu of taxes (PILOTs). Application is made to the local assessing office.

Exemption for Drainage Improvement Districts (Environmental Conservation Law §15-1909 (4))

Any real property owned by a drainage improvement district in order to provide for the drainage of agricultural lands to improve its productive capacity or conserve the public health, safety and welfare, is exempt from real property taxes, but such property will still be subject to special ad valorem levies and special assessments. The drainage improvement district must have been established with the approval of the Department of Environmental Conservation as provided in Title 19 of Article 15 of the environmental conservation law. Application is made to the local assessor's office.

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State Income Tax

Industrial or Manufacturing Business Credit for Energy Taxes (Tax Law Article 1, §14-a)

Provides income tax credit to farm operations and other businesses that have paid certain taxes on the delivery and use of electricity, steam, water, natural gas, propane, and refrigeration utility service.

Empire Zone Tax Credits (Tax Law Article 9, §§187-J, 187-K, 187-L and 187-M)

Under Empire Zone Program, empire zone tax credits, empire zone employment incentive credits and empire zone wage tax credits are allowed for agricultural cooperatives only. Credit is allowed under certification as an agricultural cooperative under the General Municipal Law.

Farmer's School Property Tax Credit:

- ☒ **Corporate Franchise Tax Credit (Tax Law Article 9-A, §210(22)(i))**
- ☒ **Agricultural Property Tax Credit (Tax Law Article 22, §606(n)(8))**

Tax credit to reimburse some or all of the school district property taxes paid by farmers. The credit is also extended to qualified agricultural property owned by a parent, grandparent or sibling of a taxpayer where there is a written agreement expressing an intent to eventually purchase the land. The credit is claimed on either the corporation franchise tax return or personal income tax return when filed each year. Two thirds of a person's excess federal gross income must come from farming to qualify, and that gross income may include gross income from commercial horse boarding operations. Forms are provided by NYS Department of Taxation and Finance. This credit is not part of the Agricultural Districts Program.

In taxable years on or after January 1, 2006, eligibility for the tax credit is expanded by raising the base acreage from 250 to 350 acres and by raising the income limitation from \$100,000 to \$200,000.

State Tax Credit, Conservation Easement, (Tax Law Article 9-A, §210(38) and Article 22, §606(k))

For taxable years commencing on or after January 1, 2006 a tax credit is allowed of up to 25% of the county, town, and school district taxes paid on land which is subject to a conservation easement held by a public or private conservation agency. Conservation agency is defined to include state, local and federal governmental bodies and certain not-for-profit organizations authorized to do business in New York. The credit may not exceed \$5,000 or the total property tax liability by itself or in combination with similar credits.

Sales and Compensating Use Tax Exemptions (Tax Law, Article 28, §§1101, 1105, 1115, 1120)

Exclusion from sales and compensating use taxes, including petroleum, diesel and motor fuel taxes, for certain farming and commercial horse boarding operations as defined in the above sections of the tax law.

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Additional Information:

Further information regarding the applicability of real property tax exemptions may be obtained from:

The NYS Office of Real Property Services (ORPS)
Agricultural Issues: Mark Twentyman
(518) 486-7027 or E-mail: mark.twentyman@orps.state.ny.us

The ORPS web site contains a wealth of information regarding agricultural related property tax issues and the farmer's school tax credit, including many "frequently asked questions" sections:

See: www.orps.state.ny.us

For further information regarding income or sales taxes contact:

NYS Department of Taxation and Finance
(518) 457-2254 or the Internet at www.tax.state.ny.us
See: "Questions and Answers on New York State's Farmer's School Tax Credit" (Pub 51, 11/97 and Pub 51.1 Update 12/2006)

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