

Statutory References

As to valuation, taxation and assessment of structures, see N.J.S.A. 54:4-23.12 as amended by P.L. 1970, c.70.

18:15-4.6 through 18:15-4.8 (Reserved)

SUBCHAPTER 5. TAXABLE VALUE OR ASSESSED VALUE OF FARMLAND

18:15-5.1 Taxable value defined

The taxable or assessed value of land qualifying for farmland assessment shall be such percentage of its value in agricultural or horticultural use, determined under the Act, as corresponds to the percentage of true value established by the county board of taxation for the assessment of real property generally.

Example:

Where the established percentage level for the assessment of general real property in the taxing district is 50 per cent, land qualifying for farmland assessment having a value of \$5,000 in agricultural or horticultural use will have a taxable value (assessed value) of \$2,500.

18:15-5.2 Land not qualifying for farmland assessment

Land which does not qualify for farmland assessment is valued and assessed in the same manner as other real property in the taxing district.

18:15-5.3 Recordation of taxable value

(a) The taxable value of land which qualifies for farmland assessment is to be recorded on the assessor's tax list and duplicate in the same manner as that of other taxable lands in the taxing district.

(b) Where a portion of a parcel of land is assessed under the Act and another portion of said parcel is assessed in the same manner as other general real property, each portion is to be shown on the tax list and duplicate on a separate line.

Statutory References

As to tax and duplicate, see N.J.S.A. 54:4-23.19.

18:15-5.4 through 18:15-5.6 (Reserved)

SUBCHAPTER 6. ACTIVELY DEVOTED TO AGRICULTURAL USE OR HORTICULTURAL USE

18:15-6.1 Actively devoted to agricultural or horticultural use defined

(a) Land, five acres in area, shall be deemed to be actively devoted to agricultural use when it is used for any of the purposes described in N.J.A.C. 18:15-1.1 and 6.2 and:

1. When the amount of the gross sales of agricultural or horticultural products produced thereon, any payments received under a soil conservation program, fees received for breeding, raising or grazing any livestock, income imputed to land used for grazing in the amount determined by the State Farmland Evaluation Advisory Committee created pursuant to N.J.S.A. 54:4-23.20, and fees received for boarding, rehabilitating or training any livestock where the land under the boarding, rehabilitating or training facilities is contiguous to land which otherwise qualifies for farmland assessment, have averaged at least \$500.00 per year on the first five acres, \$5.00 per acre per year on any additional acres of farmland other than woodland and wetland, and \$0.50 per acre per year on any additional acres constituting woodland and wetland during the two-year period immediately preceding the tax year in issue; or

2. There is clear evidence of anticipated yearly gross sales, payments and fees amounting to at least \$500.00 per year on the first five acres, \$5.00 per acre per year on any additional acres of farmland other than woodland and wetland and \$0.50 per acre per year on any additional acres constituting woodland and wetland within a reasonable period of time.

(b) The amount of the gross sales, fees, payments, or income imputed to land used for grazing, or payments may be from one or a combination of sources included in (a)1 above, except fees for boarding, rehabilitating, or training livestock shall only be included, and the land deemed to be actively devoted to an agricultural use, where such use occurs on land which is contiguous to land under the same ownership, which otherwise qualifies for farmland assessment.

1. Examples are as follows:

i. Example (1): On a 10 acre parcel of land, six acres are devoted to growing crops and generate annual gross sales of \$650.00. The remaining four acres are used for boarding horses and generate annual boarding fees of \$8,500. Since the land used for boarding horses is contiguous to land five acres or more otherwise qualifying for farmland assessment, the fees from boarding may be included to meet the minimum gross income requirements and qualify the entire 10 acre parcel.

ii. Example (2): On a 10-acre parcel of land, 3.5 acres are devoted to growing crops and generate annual gross sales of \$450.00. The remaining 6.5 acres are used for boarding horses and generate annual boarding fees of \$10,500. None of the 6.5 acres is used for grazing horses. The land contiguous to the land used for boarding horses does not otherwise qualify for farmland assessment, both because it is not at least five acres in area and because it does not meet the minimum \$500.00 income requirement for the first five acres. Therefore, the fees from boarding may not be included

to meet the minimum gross income requirements, and the entire 10-acre parcel is ineligible for qualification.

iii. Example (3): A 10 acre parcel of land is managed under a soil conservation program of the United States Department of Agriculture and receives an annual payment of \$750.00. Since the payment meets the income requirement of \$525.00 (\$500.00 + \$5.00 for each acre above five), the entire 10 acres are eligible for farmland assessment.

iv. Example (4): On an 8.5-acre parcel of land, .5 acres is used with the house, and three acres are devoted to boarding and training horses which produces fees of \$3,200. The remaining five acres are utilized for grazing the boarded horses at an imputed value of \$99.00. Income imputed to grazing is determined to be \$495.00. Since the five acres used for grazing does not have an imputed value for such use of at least \$500.00, it is not eligible for farmland assessment. The three-acre portion used for boarding and training is also ineligible because it is not contiguous to land which otherwise qualifies for farmland assessment.

v. Example (5): Three horses and pony are kept by an owner on his land for pleasure riding. The animals pasture on 14 acres which have an imputed grazing value of \$1,442. The imputed grazing value in this county is \$103.00 per acre. Although the imputed grazing value exceeds the income requirements for qualification, the land nevertheless would be ineligible for farmland assessment since the livestock are not raised for sale, the livestock do not produce products for sale, and the grazing is not connected with breeding, raising, boarding, rehabilitating or training activities.

vi. Example (6): On a 10-acre parcel of land, one acre is used for residential dwelling, three acres are devoted to hay production, four acres are fenced pasture for boarded horses, .5 acres is for the boarding facility, and 1.5 acres is appurtenant woodland. One hundred twenty-five bales of hay with a value of \$3.00 per bale generating \$375.00 in value are produced annually and fed to the boarded horses. Income imputed to land for grazing of \$100.00 per acre times four acres equals \$400.00. As seven acres of land producing \$775.00 in income is adjacent to the boarding facility, nine acres qualifies for farmland assessment.

(c) In cases where the income requirements for farmland assessment have not been met due to an injury, illness or death of the person responsible for performing the activities which produce the income necessary to meet the income eligibility requirements, the assessor shall, upon request by the owner of the land, exempt the owner from the income requirements.

1. In the case of injury or illness, the owner's request shall be accompanied by a certificate of a physician which shall include a statement that the person was physically incapacitated, the particular reason causing the incapacitation, and the period of time of the incapacitation.

2. In the case of death, the owner's request shall be accompanied by a certified copy of the death certificate.

3. The assessor may only grant an exception once for a particular illness, injury, or death.

Amended by R.1973 d.295, effective October 17, 1973.

See: 5 N.J.R. 318(a), 5 N.J.R. 393(b).

Amended by R.1979 d.87, effective March 8, 1979.

See: 11 N.J.R. 100(b), 11 N.J.R. 210(b).

Amended by R.1997 d.405, effective October 6, 1997.

See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).

In (a)1, amended to incorporate fees and income and inserted reference to wetland; in (a)2, incorporated fees and inserted reference to wetland; and added (b) and (c).

Amended by R.2004 d.62, effective March 1, 2004.

See: 35 N.J.R. 4044(b), 36 N.J.R. 1226(a).

In (b)1, inserted the third sentence in ii, inserted "at an imputed value of \$99.00" at the end of the second sentence and substituted "\$495.00" for "\$300.00" in iv, substituted "\$1,442" for "\$725.00" at the end of the second sentence and added the third sentence in v, added vi.

Case Notes

Property used for growing trees qualified as farmland. Borough of Franklin Lakes v. Mutzberg, 226 N.J.Super. 46, 543 A.2d 477 (A.D. 1988).

Agricultural or horticultural use of land otherwise eligible for farmland assessment must be lawful, that is, a permitted use; forestry operation use of land not permitted under zoning ordinance does not qualify to constitute two calendar year minimum use period for farmland assessment eligibility. Clearview Estates, Inc. v. Boro. of Mountain Lakes, 188 N.J.Super. 99, 456 A.2d 111 (App.Div.1982).

18:15-6.2 Devoted to agricultural or horticultural use defined

(a) "Devoted to agricultural or horticultural use" means:

1. Land on which crops are grown for market, either retail or wholesale;

2. Land on which cover crops are grown as part of a regular crop rotation program;

3. Land on which crops are grown for on-farm use, but not including land on which vegetables, fruits, and like products are grown for on-farm personal consumption;

4. Land on which are maintained, pastured or ranged farm animals whose products or the animals themselves are produced for market, either retail or wholesale;

5. Land which has met the requirements and qualified for payments or compensation from an agency of the Federal government under the Soil Bank Program, or an equivalent program such as the Conservation Reserve or Wetlands Reserve Program;

6. Land on which trees and forest products are produced for sale and such land is in compliance with a written approved woodland management plan; or

7. Land on which livestock is boarded, raised, rehabilitated, trained or grazed, except "livestock" shall not include dogs.

8. Wooded property or wetlands, which both can be considered appurtenant woodland, which is contiguous to, part of, or beneficial to land described in (a) above, and to which the woodland is supportive and subordinate.

Amended by R.1997 d.405, effective October 6, 1997.

See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).

Added (a)7 and 8.

Amended by R.2004 d.62, effective March 1, 2004.

See: 35 N.J.R. 4044(b), 36 N.J.R. 1226(a).

In (a), deleted 6 and recodified former 7 and 8 as 6 and 7; added a new 8.

Statutory References

As to which land is deemed in agricultural use, see N.J.S.A. 54:4-23.3.

As to which land is deemed in horticultural use, see N.J.S.A. 54:4-23.4.

Case Notes

Taxpayer was not entitled to farmland assessment for appurtenant parcel of land where farmland and parcel were separate tax line items and had distinct characteristics and purposes. *Wyer v. Middleton Tp.*, 16 N.J.Tax 544 (1997).

Land used for grazing horses for fee did not qualify for farmland assessment. *Dowd v. Howell Tp.*, 15 N.J.Tax 82 (1995).

Land is devoted to an agricultural use if it is "devoted to woodland appurtenant to land in agricultural or horticultural use and reasonably required for the purpose of maintaining the land in such use"; additional woodland, uncultivated, unused and unneeded for production primary function cannot be added on to bring taxpayer within the statutory five-acre requirement for farmland assessment. *Mason v. Tp. of Wyckoff*, 1 N.J.Tax 433 (Tax Ct.1980).

Kugler v. Wall Tp., 1 N.J.Tax 10 (Tax Ct.1980).

Farmland assessment denied due to failure to prove production of minimum gross income; three tracts contiguous to farm which had never been functionally part of farm, which were not integrated with the farm in any documentary manner and upon which independent commercial operations had been undertaken held not to qualify for farmland assessment. *Wiesenfeld v. Tp. of South Brunswick*, 166 N.J.Super 90, 398 A.2d 1342 (App.Div.1979).

Farmland assessment upheld; Farmland Assessment Act did not exceed its enabling constitutional amendment by allowing forestland to be entitled to farmland assessment; owner's intended use of eligible land is not to be considered in determining eligibility; assessment of land at highest farmland valuation held erroneous as without supporting method of valuation in evidence. *Urban Farms, Inc. v. Tp. of Wayne, Passaic Cty.*, 159 N.J.Super. 61, 386 A.2d 1357 (App.Div.1978).

Woodlands and reservoirs contiguous to taxpayer's cranberry bogs held reasonably required for purpose of maintaining land in agricultural use; adoption of lowest assessment rate by trial judge without explanation held totally arbitrary and requiring remand. *Bunker Hill Cranberry Co. v. Tp. of Jackson*, 144 N.J.Super. 230, 365 A.2d 204 (App.Div. 1976), certification denied, 73 N.J. 59, 372 A.2d 324 (1977).

Tract principally dedicated to agricultural use and meeting statutory area and gross sales requirements held entitled to farmland assessment in its entirety rather than only that portion of tract actually being farmed. *Tp. of Andover v. Kymer*, 140 N.J.Super. 399, 356 A.2d 418 (App.Div.1976).

Woodland, wet areas and other acreage having a marginal value for agricultural or horticultural use may also be given a farmland assessment, as long as the acreage is part of, appurtenant to, or reasonably required for the purpose of maintaining the land actually devoted to farm use, particularly where it has been part of the farm for a number

of years. *Boro. of Califon v. Stonegate Properties, Inc.*, 2 N.J.Tax 153 (Tax Ct.1981).

Where two tracts of land were neither contiguous nor appurtenant to the tract entitled to farmland assessment, the two tracts were not reasonably required for the purpose of maintaining the farmland tract and agricultural use, and were therefore not entitled to farmland assessment. *Bass River Tp. v. Hogwallow, Inc.*, 1 N.J.Tax 612 (Tax Ct.1980).

18:15-6.3 Evidence of anticipated yearly gross sales, fees or payments

(a) An applicant must submit proof that from the present use and the nature and characteristics of the land and from the productivity plans of the owner or occupant thereof, it can be demonstrated that the income requirements as specified in N.J.A.C. 18:15-6.1 are met. Included in the minimum gross sales to qualify the farm should be crops grown for the on-farm use at the retail sales value which the farmer would have to pay if purchased in the open market, but not included would be products grown for on-farm personal consumption.

(b) The formula for computing the minimum gross sales to qualify a farm is illustrated by the following example:

EXAMPLE:

A farm contains 105 acres of which 75 acres is farmland and 30 acres is woodland and the gross sales is \$900.00. Gross sales required would be as follows:

Acreage and Type	Gross Sales
First 5 acres of farmland	\$500.00
70 acres of farmland	350.00 (\$5.00 per acre for all acres in excess of 5 acres)
30 acres of woodland	15.00 (\$.50 per acre on all acres in excess of 5 acres)
Total Gross Sales required	\$865.00 (Minimum requirement according to example)

Since the farm has gross sales of \$900.00 and only \$865.00 is the minimum requirement, then this farm would qualify under the Act as to gross sales.

Amended by R.1973 d.295, effective October 17, 1973.

See: 5 N.J.R. 318(a), 5 N.J.R. 393(b).

Amended by R.1997 d.405, effective October 6, 1997.

See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).

Case Notes

Crops grown for on-farm use; value in determining average gross annual sales. *Cheyenne Corp. v. Township of Byram*, 14 N.J.Tax 167 (A.D.1993).

18:15-6.4 Failure to meet additional gross sales requirement on acreage—rollback

Land previously qualified as actively devoted to agricultural or horticultural use under the Act but failing to meet the additional requirement on acreage above five acres shall not be subject to the roll-back tax because of such disqualification, but shall be treated as land for which an annual application has not been submitted.

Amended by R.1973 d.295, effective October 17, 1973.

See: 5 N.J.R. 318(a), 5 N.J.R. 393(b).

18:15-6.5 through 18:15-6.6 (Reserved)**SUBCHAPTER 7. ROLL-BACK TAXES****18:15-7.1 When applicable**

When land which is in agricultural or horticultural use and is being assessed under the Act is applied to a use other than agricultural or horticultural, it is subject to additional taxes, hereinafter referred to as "roll-back taxes".

Statutory References

As to when roll-back taxes become applicable, see N.J.S.A. 54:4-23.8.

Case Notes

Reformation of title insurance policy for Farmland Assessment Act liability exception; buyer held liable for roll-back taxes due to change in use of property. *Paz v. DeSimone*, 139 N.J.Super. 102, 352 A.2d 609 (Ch.Div.1976).

18:15-7.2 Liability attaches on land use change

(a) The liability for roll-back taxes attaches to the land at the time a change in the use of the land occurs, but not when a change in ownership takes place if the new owner continues to devote the land to agricultural or horticultural use in conformity with the requirements of the Act.

(b) Land acquired by the State, a local government unit, a qualifying tax-exempt nonprofit organization, or the Palisades Interstate Park Commission for recreation and conservation purposes shall not be subject to roll-back taxes. As used in this section, "acquired," "local government unit," "qualifying tax-exempt nonprofit organization" and "recreation and conservation purposes" mean the same as those terms are defined pursuant to section 3 of The Garden State Preservation Trust Act, P.L. 1999, c.152 (N.J.S.A. 13:8C-3) and as amended by P.L. 2001, c.312 (N.J.S.A. 13:8C-29).

Amended by R.2004 d.62, effective March 1, 2004.

See: 35 N.J.R. 4044(b), 36 N.J.R. 1226(a).

Identified existing text as (a); added (b).

Statutory References

As to when liability for roll-back taxes occurs, see N.J.S.A. 54:4-23.8.

Case Notes

Parcels obtained by Department of Environmental Protection for public water supply, recreation and conservation purposes were not exempt from roll-back taxes; roll-back taxes do not automatically apply upon a change of ownership, absent change in use. *Dep't of Environmental Protection v. Franklin Tp.*, 3 N.J.Tax 105, 181 N.J.Super. 309, 437 A.2d 353 (Tax Ct.1981), affirmed 5 N.J.Tax 476 (App.Div.1983).

Reformation of title insurance policy for Farmland Assessment Act liability exception; buyer held liable for roll-back taxes due to change in use of property. *Paz v. DeSimone*, 139 N.J.Super. 102, 352 A.2d 609 (Ch.Div.1976).

18:15-7.3 Amount; computation

(a) In determining the amount of roll-back taxes chargeable on land which has undergone a change in use, the assessor is required for each of the roll-back tax years involved to ascertain:

1. The full and fair value of such land under the valuation standard applicable to other taxable land in the taxing district;

2. The amount of the land assessment for the particular tax year by multiplying such full and fair value by the county percentage level, as determined by the county board of taxation in accordance with Section 3 of P.L. 1960, c.51 (N.J.S.A. 54:4-2.27);

3. The amount of the additional assessment on the land for the particular tax year by deducting the amount of the actual assessment on the land for that year from the amount of the land assessment determined under paragraph 2 of this subsection; and

4. The amount of the roll-back tax for that year by multiplying the amount of the additional assessment determined under paragraph 3 of this subsection by the general property tax rate of the taxing district applicable for that tax year.

R.1971 d.138, eff. August 12, 1971.

See: 3 N.J.R. 185(a), 3 N.J.R. 138(b).

Statutory References

As to computation of roll-back taxes, see N.J.S.A. 54:4-23.8.

Case Notes

Reformation of title insurance policy for Farmland Assessment Act liability exception; buyer held liable for roll-back taxes due to change in use of property. *Paz v. Desimone*, 139 N.J.Super. 102, 352 A.2d 609 (Ch.Div.1976).

18:15-7.4 Tax years applicable

(a) Roll-back taxes are applied to land for the tax year in which the change in the use of the land occurs and for such of the two tax years immediately preceding such year assessed under the Act.

(b) Examples are as follows:

1. Example (1): A parcel of land qualifies for farmland assessment for the tax years 2001, 2002, and 2003. A change of use occurs in June 2003. The land is subject to roll-back taxes for the tax years 2001, 2002 and 2003.

2. Example (2): A parcel of land was assessed generally for the tax year 2001, and qualified for farmland assessment in the tax years 2002 and 2003. A change in use occurs in June 2003. The land is subject to roll-back taxes for the tax years 2002 and 2003, but not subject to roll-back taxes for the tax year 2001, inasmuch as the land was not assessed under the Act for such tax year.