

CHAPTER 15

FARMLAND ASSESSMENT ACT

Authority

N.J.S.A. '54:4-23.1 et seq.

Source and Effective Date

R.1993 d.481, effective October 4, 1993.
See: 25 N.J.R. 2653(a), 25 N.J.R. 4604(b).

Executive Order No. 66(1978) Expiration Date

Chapter 15, Farmland Assessment Act, expires on October 4, 1998.

Chapter Historical Note

Chapter 15, Farmland Assessment Act, was filed and effective before September 1, 1969. Pursuant to Executive Order No. 66(1978), Chapter 15 was readopted effective August 12, 1983, as R.1983 d.355. See: 15 N.J.R. 1082(a), 15 N.J.R. 1487(b). Pursuant to Executive Order No. 66(1978), Chapter 15 was readopted as R.1988 d.408, effective July 29, 1988. See: 20 N.J.R. 1066(a), 20 N.J.R. 2319(a). Pursuant to Executive Order No. 66(1978), Chapter 15 expires on July 29, 1993. Chapter 15 was adopted as new rules by R.1993 d.481. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

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SUBCHAPTER 1. DEFINITIONS

18:15-1.1 Words and phrases defined

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

“Act” or “The Act” means the Farmland Assessment Act of 1964, c.48, Laws of 1964, (N.J.S.A. 54:4-23.1 *et seq.*).

“Actively Devoted to Agricultural or Horticultural Use”. See Subchapter 6 (Actively Devoted) of this Chapter.

“Agricultural use” means land which is devoted to the production for sale of plants and animals useful to man, including but not limited to:

1. Forages and sod crops;
2. Grains and feed crops;
3. Dairy animals and dairy products;
4. Poultry and poultry products;
5. Livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, and the breeding and grazing of any or all of such animals;
6. Bees and apiary products;
7. Fur animals;
8. Trees and forest products (see N.J.A.C. 18:15-2.7 for additional conditions); or
9. When devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the Federal Government.

“Approved forester” means a forester meeting standards and qualifications established by the New Jersey Department of Environmental Protection pursuant to N.J.S.A. 13:1L-1 *et seq.* and rules issued thereunder.

“Appurtenant woodland” means a wooded piece of property which is contiguous to, part of, or beneficial to a tract of land, which tract of land has a minimum area of at least five acres devoted to agricultural or horticultural uses other than the production for sale of trees and forest products, exclusive of Christmas trees, to which tract of land the woodland is supportive and subordinate.

“Assessor” means local tax assessor or Board of Assessors or other person or agency charged with the duty of assessing real property in the municipality.

“Beneficial to a tract of land” means land which enhances the use of other land devoted to agricultural or horticultural production by providing benefits such as, but not limited to, windbreaks, watershed, buffers, soil erosion control, or other recognizable enhancements of the viability of the qualifying land.

“Change in Use”. See Subchapter 8 (Change in Use) of this Chapter.

“Commissioner” means the Commissioner of the New Jersey Department of Environmental Protection or his representative.

“Farmland Assessment” means valuation, assessment and taxation under the Farmland Assessment Act of 1964, Chapter 48, Laws of 1964.

“Horticultural Use” means land which is devoted to the production for sale of fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the Federal Government.

“Pre-tax Year” means the calendar year immediately preceding the “tax year”.

“Roll-back Taxes” means the additional taxes imposed upon land after a change in use takes place.

“Supportive and subordinate woodland” means a wooded piece of property which is beneficial to or reasonably required for the purpose of maintaining the agricultural or horticultural uses of a tract of land, which tract of land has a minimum area of at least five acres devoted to agricultural or horticultural uses other than to the production for sale of trees and forest products, exclusive of Christmas trees.

“Tax Year” means the calendar year in which the local property tax is due and payable.

"Woodland data form" means a supplemental form required to be filed with the assessor and the commissioner by an owner of woodland as set forth in N.J.A.C. 18:15-2.7.

"Woodland management plan" means a plan prepared in accordance with criteria set forth in N.J.A.C. 18:15-2.10 and which is required to be filed with the assessor and the commissioner by an owner of woodland as set forth in N.J.A.C. 18:15-2.7.

Amended by R.1987 d.507, effective December 7, 1987 (operative January 1, 1988).
See: 19 N.J.R. 1538(a), 19 N.J.R. 1640(b), 19 N.J.R. 2304(a).
Added definitions.

Statutory References

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

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

As to roll-back taxes, see N.J.S.A. 54:4-23.8; As to procedure for assessment, collection, payment, see N.J.S.A. 54:4-23.9.

Case Notes

Municipality's claim of intentional or negligent misclassification against assessor was refuted. *Borough of Franklin Lakes v. Mutzberg*, 226 N.J.Super. 46, 543 A.2d 477 (A.D.1988).

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).

SUBCHAPTER 2. APPLICATION FOR FARMLAND ASSESSMENT

18:15-2.1 Persons required to file

In order that land in agricultural or horticultural use may be assessed under the act, the owner of such land must file an application form requesting such assessment with the assessor of the taxing district in which such land is situated on or before August 1 of the pre-tax year.

R.1971 d.138, effective August 12, 1971.
See: 3 N.J.R. 185(a), 3 N.J.R. 138(b).
Amended by R.1984 d.125, effective April 16, 1984.
See: 15 N.J.R. 2152(a), 16 N.J.R. 925(b).
Amended by R.1985 d.310, effective June 17, 1985.
See: 17 N.J.R. 903(a), 17 N.J.R. 1587(a).
Text "in" substituted for "is".

Statutory References

As to application for form—assessment, see N.J.S.A. 54:4-23.6(c).

Case Notes

Motion for summary judgment in assessment appeal denied due to issue of fact concerning whether the taxpayer filed a farmland valuation application by the August 1 deadline for the tax year. *Hashomer Hatzair, Inc. v. East Windsor Tp.*, 1 N.J.Tax 115, 176 N.J.Super. 250, 422 A.2d 808 (Tax Ct.1980).

Taxpayer's applications for farmland assessments were based on claim that property was used for agricultural purposes. *Interstate 78 Office Park, Ltd. v. Tewksbury Tp.*, 11 N.J.Tax 172 (1990).

Filing deadline of August 1 of the pretax year for farmland assessment is mandatory and may not be tolled. *Galloway Tp. v. Petkevis*, 2 N.J.Tax 85 (Tax Ct.1980).

18:15-2.2 Form FA-1 required

Application for assessment under the act may be made only upon completion of the form prescribed by the Director, identified as Form FA-1. Copies of the form may be obtained, upon request, from the assessor of each taxing district who is required to provide said form for use by applicants.

Amended by R.1984 d.125, effective April 16, 1984.
See: 15 N.J.R. 2152(a), 16 N.J.R. 925(b).
Amended by R.1985 d.310, effective June 17, 1985.
See: 17 N.J.R. 903(a), 17 N.J.R. 1587(a).
Text "said" substituted for "such".

Statutory References

As to form for application, see N.J.S.A. 54:4-23.14.

18:15-2.3 Form FA-1, signature and verification

The application, Form FA-1 is to be filed by the owner of the land at the time the application for farmland assessment is made. In the case of multiple ownership, (except corporate co-owners), one of the owners may sign on behalf of the other co-owners, and such signer will be presumed to have authority to sign on behalf of the other owners. In the case of a corporate owner or owners the full name of the corporation must be filled in, and accompanied by the signature and title of the corporate officer authorized to sign the application on its behalf.

Amended by R.1984 d.125, effective April 16, 1984.
See: 15 N.J.R. 2152(a), 16 N.J.R. 925(b).
Amended by R.1985 d.310, effective June 17, 1985.
See: 17 N.J.R. 903(a), 17 N.J.R. 1587(a).
Form FA-1S deleted from section.

Statutory References

As to form for application, see N.J.S.A. 54:4-23.14.

18:15-2.4 Annual filing required

In order that land in horticultural or agricultural use can continue to be assessed as farmland, the owner thereof must annually, on or before August 1 of the pre tax year, complete and file an application on Form FA-1 with the assessor of the taxing district where such land is situated. See Form FA-1, revised January, 1985. This form supercedes Form FA-1 of prior dates.

R.1971 d.138, effective August 12, 1971.
See: 3 N.J.R. 185(a), 3 N.J.R. 138(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.1984 d.125, effective April 16, 1984.
See: 15 N.J.R. 2152(a), 16 N.J.R. 925(b).
Amended by R.1985 d.310, effective June 17, 1985.

See: 17 N.J.R. 903(a), 17 N.J.R. 1587(a).
Substantially amended.

Statutory References

As to time for application, see N.J.S.A. 54:4-23.6(c), 54:4-23.12, 54:4-23.13.

Case Notes

Assessment at full value not reviewable under statute. *Hovbilt, Inc. v. Township of Howell*, 138 N.J. 598, 651 A.2d 77 (1994).

Burden of proof rests with landowners applying for farmland assessment. *Hovbilt, Inc. v. Township of Howell*, 138 N.J. 598, 651 A.2d 77 (1994).

18:15-2.5 Extension of time for filing

The owner of land in horticultural or agricultural use may file an application after August 1, but before December 31 of the pre-tax year if the taxing district in which the land is located completes a revaluation of all property in time to be reflected in the assessments for the next succeeding tax year.

R.1971 d.138, effective August 12, 1971.
See: 13 N.J.R. 185(a), 3 N.J.R. 138(b).
Amended by R.1984 d.125, effective April 16, 1984.
See: 15 N.J.R. 2152(a), 16 N.J.R. 925(b).
Amended by R.1985 d.310, effective June 17, 1985.
See: 17 N.J.R. 903(a), 17 N.J.R. 1587(a).
"An" substituted for "the".

Statutory References

N.J.S.A. 54:4-23.13a.

18:15-2.6 Application forms; original and two copies

(a) The original of the FA-1 form submitted to the assessor shall be retained in the office of the assessor.

(b) Two copies of each application shall be forwarded to the Local Property and Public Utility Branch by the assessor on or before January 10 of the tax year.

(c) Each triplicate copy of the application form shall, in the space reserved for official use, be signed and dated by the assessor and be marked "approved" or "disapproved".

R.1971 d.138, effective August 12, 1971.
See: 3 N.J.R. 185(a), 3 N.J.R. 138(b).
Amended by R.1984 d.125, effective April 16, 1984.
See: 15 N.J.R. 2152(a), 16 N.J.R. 925(b).
Amended by R.1985 d.310, effective June 17, 1985.
See: 17 N.J.R. 903(a), 17 N.J.R. 1587(a).
Substantially amended.

Statutory References

N.J.S.A. 54:4-23.21.

18:15-2.7 Additional conditions to be fulfilled by an owner of woodland which is devoted exclusively to the production for sale of trees and forest products other than Christmas trees or the owner of woodland which is not supportive and subordinate woodland

(a) The owner of land which is devoted exclusively to the production for sale of trees and forest products other than Christmas trees or the owner of woodland which is not supportive and subordinate woodland shall annually submit to the assessor, in addition to a completed and timely filed application for farmland assessment (Form FA-1), the following accompanying information:

1. A copy of a woodland management plan prepared in accordance with provisions noted under N.J.A.C. 18:15-2.10;

2. A scaled map of the land showing the location of woodland activity and the soil group classes of the land; and

3. A completed woodland data form (Form WD-1), as prescribed by the Director of the Division of Taxation. The information to be provided by the landowner on such form shall include the following:

- i. A description of all woodland management actions taken in the pre-tax year;

- ii. A statement as to the type and quantity of tree and forest products sold;

- iii. An indication of the amount of income received or anticipated from the sale of trees and forest products; and

- iv. A certification in lieu of an oath signed by both the landowner and an approved forester stating that the land is actively devoted to a woodland use which is in compliance with the filed woodland management plan.

(b) If the documents set forth in (a) above are not submitted annually to the assessor, such land shall be deemed not to be in agricultural use.

New Rule, R.1987 d.507, effective December 7, 1987 (operative January 1, 1988).
See: 19 N.J.R. 1538(a), 19 N.J.R. 1640(b), 19 N.J.R. 2304(a).

Case Notes

Woodland property did not qualify for farmland assessment; no income; no horticultural or agricultural activity. *Estell Manor City v. Stern*, 14 N.J.Tax 394 (1995).

18:15-2.8 Supportive and subordinate woodland presumption

(a) A wooded piece of property as described in the definition of supportive and subordinate woodland in N.J.A.C. 18:15-1.1 shall be presumed to be supportive and subordinate woodland when its area is less than the area of the farmland property qualifying for agricultural or horticultural uses other than the production for sale of trees and forest products, exclusive of Christmas trees.

(b) An owner claiming farmland assessment for a wooded piece of property exceeding the amount set forth in (a) above as presumed to be supportive and subordinate woodland shall submit an explanation and additional proofs the assessor may require to support the claim that such woodland is supportive and subordinate.

New Rule, R.1987 d.507, effective December 7, 1987 (operative January 1, 1988).

See: 19 N.J.R. 1538(a), 19 N.J.R. 1640(b), 19 N.J.R. 2304(a).

18:15-2.9 Filing of copies with commissioner

A woodland owner subject to the additional conditions set forth in N.J.A.C. 18:15-2.7 shall, at the time of filing an application for farmland assessment with the assessor, also submit copies of the application and accompanying information to the commissioner.

New Rule, R.1987 d.507, effective December 7, 1987 (operative January 1, 1988).

See: 19 N.J.R. 1538(a), 19 N.J.R. 1640(b), 19 N.J.R. 2304(a).

18:15-2.10 Criteria of a woodland management plan

(a) An owner of land subject to the additional conditions as set forth in N.J.A.C. 18:15-2.7 shall submit a woodland management plan prepared in accordance with the following criteria:

1. A cover page for the plan shall be prepared delineating the following:

- i. The owner's name and mailing address;
- ii. The municipality and county where the subject woodland is located;
- iii. The block(s) and lot(s) of the subject woodland;
- iv. The amount of acreage of the subject woodland;
- v. The name and address of the approved forester who prepared the plan, if not prepared by the owner; and
- vi. The date the plan was prepared and the period of time the plan covers.

2. A clear and concise statement of the owner's objectives in managing the woodland.

3. A description of how the property boundaries are or will be marked and delineated.

4. A brief description of past activities that have had an effect on the woodland including, but not limited to, wildfire, insect and disease outbreaks, timber sales, plantings, thinnings and weedings.

5. A statement describing each defined forest stand in some combination of the following factors:

- i. The number of acres;
- ii. The species composition including overstory and understory;

iii. The general condition and quality;

iv. The structure including age classes, DBH classes, and crown classes;

v. The overall site quality; and

vi. The condition and species composition of advanced regeneration when applicable; and

vii. The stocking levels, growth rates and volumes.

6. A description of the silvicultural prescriptions, management recommendations, activities and practices specified and planned for each forest stand, and an explanation of how these sequences of treatment are integrated into the overall coordinated plan and time frame to meet the stated management objectives. Such management recommendations and practices shall be prepared for a period of time not less than 10 years.

7. A statement of average overall productivity capabilities of the woodland.

8. A map of the property shall be prepared to include, but not necessarily be limited to the following:

- i. The owner's name, address, and the date the map was prepared;
- ii. An arrow designating the north direction;
- iii. A scale not smaller than 1:1320 nor larger than 1:400;
- iv. A legend defining the symbols appearing on the map;
- v. The location of property lines;
- vi. An identification of forest stands which are keyed to written prescriptions;
- vii. A delineation of physical features such as roads, streams, structures, etc.;
- viii. An identification of soil types (A separate map can be used for this purpose); and
- ix. A brief description or a map inset of the land for the purpose of identifying the location of the property in relation to the local area.

New Rule, R.1987 d.507, effective December 7, 1987 (operative January 1, 1988).

See: 19 N.J.R. 1538(a), 19 N.J.R. 1640(b), 19 N.J.R. 2304(a).

Case Notes

Woodland management plan; qualification of woodland for farmland assessment. *Estell Manor City v. Stern*, 14 N.J.Tax 394 (1995).

18:15-2.11 Acknowledgment of receipt

(a) The commissioner, upon receipt of the application and accompanying information, shall acknowledge such receipt to both the applicant and the assessor on or before September 15 of the pre-tax year.

(b) The acknowledgment by the commissioner shall also indicate whether the application is sufficient or whether additional information must be submitted by the applicant.

(c) If additional information is requested, the applicant shall submit such information to the commissioner and the assessor within 14 days of the commissioner's request.

New Rule, R.1987 d.507, effective December 7, 1987 (operative January 1, 1988).
See: 19 N.J.R. 1538(a), 19 N.J.R. 1640(b), 19 N.J.R. 2304(a).

18:15-2.12 Notice of compliance or noncompliance by the commissioner

(a) On or before October 31 of the pre-tax year, the commissioner shall notify the assessor in writing of the results of his review stating whether the reporting requirements of N.J.A.C. 18:15-2.7 have been satisfied by the applicant.

(b) If the commissioner determines the applicant has not satisfied such requirements, he shall indicate the reasons for his finding of noncompliance.

(c) The assessor shall disapprove the application determined to be in noncompliance and transmit a notice of disallowance of claim to the landowner as provided under N.J.A.C. 18:15-3.6.

(d) If the commissioner determines the applicant has satisfied such requirements, he shall indicate the date of the last inspection of the land as prescribed under N.J.A.C. 18:15-2.13.

(e) The assessor, after receipt of a notice of compliance, shall approve or disapprove the application in accordance with his determination as to whether the property is otherwise qualified for farmland assessment.

(f) In the event that the commissioner does not give timely notice to the assessor of his findings of compliance or noncompliance, the assessor may approve or disapprove the application as in the case of other applications not subject to the additional conditions as noted under N.J.A.C. 18:15-2.7.

New Rule, R.1987 d.507, effective December 7, 1987 (operative January 1, 1988).
See: 19 N.J.R. 1538(a), 19 N.J.R. 1640(b), 19 N.J.R. 2304(a).

18:15-2.13 On-site inspections required to be made by the commissioner

(a) The commissioner, in addition to reviewing each application, shall make an on-site inspection of the property to determine whether the land is in compliance with the filed woodland management plan.

(b) Such on-site inspection shall be made during one of the first three years following the initial application and submission of accompanying information required by an owner of woodland as set forth in N.J.A.C. 18:15-2.7, and thereafter at least once every three years.

(c) In the event the commissioner determines the woodland is not in compliance, he shall transmit a notice of noncompliance to the assessor within five days stating the reasons for noncompliance.

New Rule, R.1987 d.507, effective December 7, 1987 (operative January 1, 1988).
See: 19 N.J.R. 1538(a), 19 N.J.R. 1640(b), 19 N.J.R. 2304(a).

18:15-2.14 Land failing to meet conditions set forth in N.J.A.C. 18:15-2.7

Land which fails to meet the additional conditions set forth in N.J.A.C. 18:15-2.7 during the first year in which the conditions are imposed, shall not be subject to roll-back taxes for such failure, but shall be treated as land for which an annual application was not submitted.

New Rule, R.1987 d.507, effective December 7, 1987 (operative January 1, 1988).
See: 19 N.J.R. 1538(a), 19 N.J.R. 1640(b), 19 N.J.R. 2304(a).

18:15-2.15 Transition rule initiating filing time for beginning of application or new conditions on woodland owners

An owner of woodland filing an application for farmland assessment (Form FA-1) in 1988 for valuation, assessment and taxation of land in accordance with the provisions of the Farmland Assessment Act of 1964 during the 1989 tax year, but not fulfilling the additional conditions imposed on affected woodland owners as set forth in N.J.A.C. 18:15-2.7, shall be granted an extension of time to fulfill such conditions by filing the required additional information with the tax assessor and the Commissioner of the Department of Environmental Protection no later than July 1, 1989. The extension of time shall not relieve an applicant seeking farmland assessment qualification of his land in 1989 from submitting an application for farmland assessment (Form FA-1) in a timely manner during the 1988 pretax year.

New Rule, R.1988 d.414, effective September 6, 1988.
See: 20 N.J.R. 1337(a), 20 N.J.R. 2319(b).
Amended by R.1989 d.150, effective March 20, 1989.
See: 21 N.J.R. 125(a), 21 N.J.R. 779(a).
July 1 deadline was March 1.

SUBCHAPTER 3. PROOF TO SUPPORT APPLICATION FOR FARMLAND ASSESSMENT

18:15-3.1 Two year period devoted to agricultural or horticultural use required

(a) Land eligible for farmland assessment in addition to meeting the qualifications provided in sections 3.2 through 3.5 of this chapter, must have been actively devoted to agricultural or horticultural use as defined in subchapter 6 (Actively devoted) of this chapter for at least two successive years immediately preceding the tax year for which such assessment is requested.

1. Example: Where application for farmland assessment is made for the tax year 1978, the land must have been actively devoted to agricultural or horticultural use during the entire period of the calendar years 1976 and 1977.

As amended, R.1979 d.87, effective March 8, 1979.
See: 11 N.J.R. 100(b), 11 N.J.R. 210(b).

Statutory References

As to requisite period of devotion, see N.J.S.A. 54:4-23.6(a).

Case Notes

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).

Land qualified for farmland assessment for two years preceding tax year. *Mt. Hope Min. Co. v. Rockaway Tp.*, 8 N.J.Tax 570 (1986).

Taxpayer was entitled to farmland assessment on forestry land despite violation of tree removal ordinance. *Mt. Hope Min. Co. v. Rockaway Tp.*, 8 N.J.Tax 570 (1986).

18:15-3.2 Area of land devoted to agricultural or horticultural use

(a) Land actively devoted to agricultural or horticultural use, in order to be eligible for farmland assessment, must have a minimum area of five acres.

(b) In determining the area of such land, all the land under barns, silos, cribs, greenhouses and like structures, lakes, dams, ponds, streams, irrigation ditches and like facilities are included, but land under and such additional land as may be actually used in connection with the farmhouse including, but not limited to, land use for lawns, flower gardens, shrubs, swimming pools, tennis courts and for like purposes is excluded in determining the total area.

(c) Where separate parcels of land in agricultural or horticultural use under a single ownership are located in the same taxing district, compliance with the five-acre minimum area eligibility requirement is deemed to have been met if the separate parcels are contiguous and the aggregate eligible area thereof is at least five acres. For the purpose of this Section, land under single ownership, separated by a public right of way, is deemed to be contiguous.

(d) Where contiguous land in agricultural or horticultural use in one ownership is located in more than one taxing district, compliance with the five-acre minimum area requirement is determined on the basis of the total eligible area of such land and not the area which is located in the particular taxing district.

(e) Where separate, noncontiguous parcels of land in agricultural or horticultural use, in a single ownership, are located in the same taxing district, a separate application for

farmland assessment must be made with respect to each parcel. The area of the separate parcels may not be aggregated for the purpose of meeting the five-acre eligibility requirement.

Statutory References

As to requisite area of land, see N.J.S.A. 54:4-23.6(b).

As to areas of land to be included in computation, see N.J.S.A. 54:4-11.

As to treatment of contiguous land in more than one taxing district, see N.J.S.A. 54:4-18.

Case Notes

Roll-back taxes are not triggered until the land is applied to a more intense use than that for which it received a farmland assessment; determination of ineligibility for farmland assessment. *Jackson Tp. v. Paolin*, 3 N.J.Tax 39, 181 N.J.Super. 293, 437 A.2d 344 (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).

18:15-3.3 Filing date

(a) The owner of land actively devoted to agricultural or horticultural use must submit the required application for farmland assessment to the assessor of the taxing district where such land is situated, on or before August 1 of the pre-tax year in order to be eligible for such assessment.

(b) An application once filed with the assessor for the tax year may not be withdrawn by the applicant after October 1 of the pre-tax year.¹

(c) If the application is filed by delivery through the mail or a commercial courier or messenger service, compliance with the time limit for filing shall be established if there is satisfactory evidence that the application was committed for delivery to the United States Postal Service or to the courier or messenger service within the time allowed for filing.

Amended by R.1983 d.574, effective December 19, 1983.
See: 15 N.J.R. 1459(b), 15 N.J.R. 2175(b).
Added (c).

¹ See Section 8.2 (Change of Use) of this Chapter as to the power of the assessor and the county board of taxation to deny or nullify an application where a change in use occurs between October 1 and December 31 of the pre-tax year.

Statutory References

As to time of application, see N.J.S.A. 54:4-23.13.

Case Notes

Notice to tax assessor of state's acquisition of property was effective upon receipt by township clerk. *State by Com'r of Transp. v. Pohatcong Tp.*, 9 N.J.Tax 528 (1988).

18:15-3.4 Representation as to use of land

The application for farmland assessment must contain a representation that the land will continue to be actively devoted to agricultural or horticultural use from the date of the application to the end of the tax year for which application for assessment is made.

18:15-3.5 Additional proof may be required by the assessor

(a) Each assessor may at any time require the submission of such additional proof as he deems necessary to establish the right of an applicant to farmland assessment.

(b) The applicant, on request of the assessor, must furnish proof of all the prerequisites necessary to show the land is eligible for farmland assessment, such as:

1. Ownership;
2. Description;
3. Area;
4. Uses; and
5. Gross sales of agricultural or horticultural products.

(c) Each owner shall immediately inform the assessor when land being assessed under the Act is applied to a use other than agricultural or horticultural.

Case Notes

Roll-back taxes are not triggered until the land is applied to a more intense use than that for which it received a farmland assessment; determination of ineligibility for farmland assessment. *Jackson Tp. v. Paolin*, 3 N.J.Tax 39, 181 N.J.Super. 293, 437 A.2d 344 (Tax Ct.1981).

18:15-3.6 Notice of disallowance of claim

(a) Where an application for valuation of land under the Act has been filed by the landowner with the assessor of the taxing district in which the land is located, and such application is disallowed, the assessor shall on or before November 1 of the pre-tax year notify the landowner by regular mail of the disallowance of his application for farmland assessment.

(b) The notice of disallowance shall set forth the reason or reasons therefore together with a statement notifying the landowner of his right to appeal such determination to the county board of taxation on or before August 15 of the tax year.

Statutory References

N.J.S.A. 54:4-23.13B.

18:15-3.7 through 18:15-3.8 (Reserved)

SUBCHAPTER 4. VALUE OF LAND QUALIFYING FOR FARMLAND ASSESSMENT

18:15-4.1 Value defined

The term "value", when applied to land qualifying for farmland assessment, means the value such land has for agricultural or horticultural use, as determined in accordance with the provisions of the Act.

Statutory References

As to "value" of land, see N.J.S.A. 54:4-23.2.

18:15-4.2 Indicia of value to be used

In valuing land which qualifies for farmland assessment, only those indicia of value which such land has for agricultural or horticultural uses are considered by the assessor and not the prospective value which such land has for subdivision or other non-agricultural or horticultural purposes.

Statutory References

As to the indicia of value to be used, see N.J.S.A. 54:4-23.7.

18:15-4.3 Usable evidence

(a) In determining the value of land in agricultural or horticultural use, the assessor, in addition to the use of his personal knowledge, judgment and experience as to the value of such land, shall also consider all the available evidence regarding the agricultural and horticultural capabilities of such land derived from soil survey data at:

1. Rutgers—The State University;
2. The National Cooperative Soil Survey; and
3. The recommendations as to the value of such land in the area as made by any county or State-wide committee which may be established to give advice concerning the administration of the Act.

Statutory References

As to the criteria to be used in valuing land, see N.J.S.A. 54:4-23.7.

18:15-4.4 Farmhouse land not agricultural use

Land on which a farmhouse is located, together with such land area as may be devoted to lawns, flower gardens, shrubs, swimming pools, tennis courts and like purposes related to the use and enjoyment of the farmhouse, are not deemed to be in agricultural or horticultural use and therefore are valued, assessed and taxed by the same standards, methods and procedures as other taxable land in the taxing district.

Statutory References

As to exclusion of farmhouse land, see N.J.S.A. 54:4-23.11.

Case Notes

Taxpayer's log cabin and one-half acre lot found not actively devoted to agricultural or horticultural use as required for preferential tax treatment as farmland. *Warselle Land Corp. v. Tewksbury Tp.*, 3 N.J.Tax 565 (Tax Ct.1981).

18:15-4.5 Structures

Any structures located on land in agricultural or horticultural use such as a farmhouse or any other structure used in connection therewith is valued, assessed and taxed by the same standards, methods and procedures as other taxable structures in the taxing district; provided, however, that the term "structure" shall not include temporary demountable plastic covered framework made up of portable parts with no permanent understructures or related apparatus, commonly known as seed starting plastic greenhouses.

Amended by R.1979 d.262, effective July 5, 1979.
See: 11 N.J.R. 304(b), 11 N.J.R. 415(b).

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 or horticultural 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 gross sales of agricultural or horticultural products produced thereon together with any payments received under a soil conservation program have averaged at least \$500.00 on the first five acres, and in addition, on all acreage above five acres, average sales of \$5.00 per acre on farmland and \$0.50 per acre on woodland during the two-year period immediately preceding the tax year in issue; or

2. There is clear evidence of anticipated yearly gross sales and such payments amount to at least \$500.00 on the first five acres, and in addition, on all acreage above five acres, average sales of \$5.00 per acre on farmland and \$0.50 per acre on woodland within a reasonable period of time.

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).

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 land:

1. On which crops are grown for market, either retail or wholesale;
2. On which cover crops are grown as a part of a regular crop rotation program;
3. 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. On which are maintained, pastured or ranged farm animals whose products or the animals themselves are produced for market, either retail or wholesale;
5. Which has met the requirements and qualified for payments or compensation under the Soil Bank Program, 7 U.S.C.A. Section 1801, et seq. or an equivalent program; or,
6. Devoted to woodland appurtenant to land in agricultural or horticultural use and reasonably required for the purposes of maintaining the land in such use.

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

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

(a) To meet the requirements of N.J.A.C. 18:15-6.1, 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 within a reasonable period of time from the date of the application, the gross sales in the aggregate of agricultural and horticultural products will average at least \$500.00 annually on the first five acres in area. On all acreage above five acres, average sales of \$5.00 per acre on farmland and \$0.50 per acre on woodland and wetland is required. 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).

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

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.

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 1976, 1977 and 1978. A change of use occurs in June 1978. The land is subject to roll-back taxes for the tax years 1976, 1977 and 1978.

2. Example (2): A parcel of land was assessed generally for the tax year 1976 and qualified for farmland assessment in the tax years 1977 and 1978. A change in use occurs in June 1978. The land is subject to roll-back taxes for the tax years 1977 and 1978, but not subject to roll-back taxes for the tax year 1976, inasmuch as the land was not assessed under the Act for such tax year.

Amended by R.1979 d.87, effective March 8, 1979.
See: 11 N.J.R. 100(b), 11 N.J.R. 210(b).

Statutory References

As to the years which are subject to roll-back taxes, 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).

18:15-7.5 Change in use when land not assessed under the Act

(a) If a change in use of the land occurs in a tax year when the land was not assessed and taxed under the Act, then such land becomes subject to roll-back taxes for such of the two tax years immediately preceding in which the land was assessed under the Act.

1. Example: A parcel of land was assessed under the Act for the tax years 1976 and 1977, but not for 1978. A change in use occurs in June 1978. The land is subject to roll-back taxes for the tax years 1976 and 1977 but is not subject to roll-back taxes for 1978 inasmuch as the land was not assessed under the Act for such tax year.

Amended by R.1979 d.87, effective March 8, 1979.
See: 11 N.J.R. 100(b), 11 N.J.R. 210(b).

Statutory References

As to liability which changes following a change in use when the land is not assessed under the Act, see N.J.S.A. 54:4-23.8.

Case Notes

Land acquired by state was subject to rollback taxes for portion of year prior to acquisition. *State by Com'r of Transp. v. Pohatcong Tp.*, 9 N.J.Tax 528 (1988).

18:15-7.6 Procedure for assessment, collection, apportionment and payment over of roll-back taxes

The assessment, collection, apportionment and payment over of the roll-back taxes imposed by the Act is governed by the procedures provided for the assessment and taxation of omitted property under N.J.S.A. 54:4-63.2.

Statutory References

As to procedures for assessment, collection, apportionment and payment over of roll-back taxes, see N.J.S.A. 54:4-23.9.

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).

18:15-7.7 Due date

(a) The due date for payment of roll-back taxes is governed by N.J.S.A. 54:4-63.20 dealing with the assessment and taxation of omitted property.

(b) Roll-back taxes are payable on November 1 following the rendering of the judgment of assessment by the county board of taxation, provided such judgment is rendered before October 1 of that year.

(c) If such judgment is rendered subsequent to October 1 and before December 31, such taxes are payable on November 1 of the following year.

Statutory References

As to due date for payment of roll-back taxes, see N.J.S.A. 54:4-23.9.

18:15-7.8 Lien date

Roll-back taxes become a lien upon the land from January 1 of the year in which the judgment of the county board is rendered.

Statutory References

As to roll-back taxes becoming a lien, see N.J.S.A. 54:4-23.9 and 54:4-63.12 *et seq.*

18:15-7.9 Review of judgment of county board of taxation

(a) The right of a taxing district, owner or other interested party to review any judgment of the county board of taxation affecting roll-back taxes is governed by the procedures provided for the assessment and taxation of omitted property (N.J.S.A. 54:4-63.23).

(b) Any judgment may be reviewed by the Division of Tax Appeals on appeal taken and prosecuted in the same manner as other appeals to said Division.

(c) The notice of appeal is required to be filed with said Division on or before December 1 following the rendering of the judgment by the county board of taxation or within three months from the time of the rendering of such judgment, whichever date is later.

Statutory References

As to review of decisions of county board of taxation, see N.J.S.A. 54:4-23.9.

18:15-7.10 Tax years when procedures applicable

(a) The procedures for the assessment, collection, apportionment and payment over of the roll-back taxes, the attachment of the lien for such taxes, and the right of a taxing district, owner or other interested party to review any judgment of the county board of taxation affecting such roll-back taxes, apply to each tax year for which roll-back taxes may be imposed, notwithstanding the limitation, prescribed in the Omitted Assessment Law, (N.J.S.A. 54:4-63.23) respecting the periods for which omitted assessments may be imposed.

(b) Although the Omitted Assessment Law provides for the taxation of omitted property with respect to any year and the next succeeding year, the procedures in the Omitted Property Tax Law are applicable, for the purposes of the Farmland Assessment Act of 1964, for the tax year in which a change in use takes place and in such of the two tax years, immediately preceding in which the land was valued, assessed and taxed under said Act.

Statutory References

As to procedures for the assessment, collection, apportionment and payment due to the roll-back taxes, see N.J.S.A. 54:4-23.9.

18:15-7.11 through 18:15-7.14 (Reserved)

SUBCHAPTER 8. CHANGE OF USE

18:15-8.1 Effect

When land which is being assessed under the Act is applied to a use other than agricultural or horticultural, it becomes subject to roll-back taxes. (See subchapter 7 (Roll-back Taxes) of this chapter for procedure imposing roll-back taxes. See subchapter 12 (Eminent Domain) of this chapter respecting inapplicability of roll-back taxes in case of eminent domain).

Statutory References

As to details appearing on assessors list, see N.J.S.A. 54:4-23.19.

18:15-8.2 Change of use between certain dates

(a) If a change in the use of land occurs between October 1 and December 31 of the pre-tax year, and an application is then pending for assessment under the Act for the ensuing tax year, either the assessor or the county board of taxation, as the case may be, shall deny or nullify such application and, after examination and inquiry, determine the full and fair value of said land under the valuation standard applicable to other land in the taxing district and assess the same according to such value.

1. An application is filed with the assessor on or before August 1, 1978 for farmland assessment for the tax year 1979. On November 15, 1978 a change in use of the land takes place. The assessor, knowing of the change of use, will deny the application and value and assess the land for the tax year 1979 in the same manner as other real property in the taxing district. If the assessor is unaware of such change before he files his assessment list and duplicate on January 10 following, then the county board of taxation, if it has knowledge of the change before the tax roll becomes final, will revoke the application and assess the land in the same manner as other real property in the taxing district.

(b) If, notwithstanding such change of use, the land is assessed under the Act in the ensuing tax year, then the assessor is required to enter an assessment, as an added assessment against such land, in the "Added Assessment List" for the particular tax year involved in the manner prescribed in the Added Assessment Law, N.J.S.A. 54:4-63.2 et seq.

(c) The added assessment is to be in an amount equal to the difference, if any, between the assessment imposed under the Act and the assessment which would have been imposed had the land been valued and assessed as other land in the taxing district. This added assessment is applicable to the full tax year and not subject to proration.

1. Example: A change in use takes place on November 15, 1977 but is not discovered by the assessor or the county board of taxation until June 1, 1978. In that event, the assessor will enter an added assessment against land on the Added Assessment List for 1978, in accordance with subsection (b) of this section. In addition, he shall impose roll-back taxes for such of the tax years 1977, 1976 and 1975, in which the land was assessed under the Act.

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

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

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

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

Statutory References

As to treatment of land which undergoes a change in use between October 1 and December 1, see N.J.S.A. 54:4-23.13.

18:15-8.3 Effect of additional assessment on roll-back taxes

The imposition of an additional assessment for the tax year, under N.J.S.A. 54:4-23.13 of the Act by reason of a change in use between October 1 and December 31 of the pre-tax year, does not affect the imposition of the roll-back taxes, if any, under the roll-back provisions set forth in N.J.S.A. 54:4-23.8 of the Act.

Statutory References

As to the effect of an additional assessment on roll-back taxes, see N.J.S.A. 54:4-23.13.

18:15-8.4 through 18:15-8.5 (Reserved)

SUBCHAPTER 9. EQUALIZATION—STATE SCHOOL AID AND COUNTY APPORTIONMENT PURPOSES

18:15-9.1 Apportionment valuation of land; classification; assessment ratio

(a) The Director, in equalizing the value of land assessed and taxed under the Act for the purposes of state school

aid, and each county board of taxation in equalizing the value of such land for the purpose of determining the "apportionment valuation" under N.J.S.A. 54:4-49, shall determine the true value of such land on the basis of its agricultural or horticultural use.

(b) In the sales-ratio analysis for such purposes, the assessed value of farm property is to be divided into two categories, namely, farmland assessed under the Act and farmland assessed as other real property in the taxing district.

(c) A separate assessment ratio is then to be determined for each classification, except that the assessment ratio determined for the classification "Residential" is also applied to the classification "Farmland Assessed Under the Act".

(d) The true value for each classification, the true value of all property in the district, and the average assessment ratio for the district, is to be determined in accordance with the established sales-ratio procedures.

Statutory References

As to determination of true value of land for purpose of state school aid and apportionment valuation, see N.J.S.A. 54:4-23.10.

Case Notes

Sale of commercial property used as trucking company depot held a nonusable deed transaction concerning the sale of commercial property including indeterminable items, plus property excluded from the Division assessment practices study. *Union Tp. v. Director, Division of Taxation*, 1 N.J.Tax 15, 176 N.J.Super. 239, 422 A.2d 803 (Tax Ct.1980).

18:15-9.2 through 18:15-9.3 (Reserved)

SUBCHAPTER 10. CONTINUANCE OF FARMLAND ASSESSMENT

18:15-10.1 Continuous agricultural use for farmland assessment

(a) In order that land continue to be valued, assessed and taxed as farmland it must continue to be devoted to agricultural or horticultural use and comply with the other requirements of the Act.

(b) The continuance of title to the land in the same owner has no effect on the treatment such land is accorded under the Act.

(c) Liability for roll-back taxes does not accrue when a change in ownership takes place if the new owner continues to devote the land to agricultural or horticultural use, under the conditions prescribed in the Act.

Statutory References

As to continuance of farmland valuation, assessment and taxation, see N.J.S.A. 54:4-23.15.

Case Notes

Roll-back tax liability found where appurtenant parcel formerly farmland assessed was split up and conveyed to a third party for use unrelated to agriculture or horticulture, demonstrating it was no longer needed to support unsold portion of farm. *Hinck v. Wall Tp.*, 3 N.J.Tax 96 (Tax Ct.1981).

18:15-10.2 through 18:15-10.3 (Reserved)

SUBCHAPTER 11. SEPARATION OR SPLIT-OFF

18:15-11.1 Liability for roll-back taxes on land split-off

The separation or split-off of a part of any land which is being assessed under the Act, either by conveyance or other action of the owner, for a use other than agricultural or horticultural, subjects the land so separated to liability for the roll-back taxes applicable.

Statutory References

As to treatment of a separation or split-off, see N.J.S.A. 54:4-23.16.

Case Notes

Roll-back tax liability found where appurtenant parcel formerly farmland assessed was split up and conveyed to a third party for use unrelated to agriculture or horticulture, demonstrating it was no longer needed to support unsold portion of farm. *Hinck v. Wall Tp.*, 3 N.J.Tax 96 (Tax Ct.1981).

18:15-11.2 Land still meeting requirements of Act

The Act does not impair the right of the remaining land to continue to be assessed under the Act, provided it still meets the five acre minimum area requirement and other conditions of the Act as may be applicable.¹

¹ See Section 12.1 (Eminent domain) of this Chapter for the effect of a change of use resulting from the taking of land under Eminent Domain.

18:15-11.3 through 18:15-11.4 (Reserved)

SUBCHAPTER 12. EMINENT DOMAIN

18:15-12.1 Effect of roll-back taxes on eminent domain and condemnation

The taking of land which is being valued, assessed and taxed under the Act by right of eminent domain is no longer exempt from the imposition of roll-back taxes. (Section 3 of P.L. 1970, c.243, approved October 28, 1970).

R.1971 d.138, effective August 12, 1971.
See: 3 N.J.R. 185(a), 3 N.J.R. 138(b).

18:15-12.2 through 18:15-12.3 (Reserved)

SUBCHAPTER 13. CONTIGUOUS LAND IN MORE THAN ONE TAXING DISTRICT

18:15-13.1 Determination of minimum area requirement

Where contiguous land in agricultural or horticultural use in one ownership is located in more than one taxing district, compliance with the five acre minimum area requirement is determined on the basis of the total area of such land and not merely the area of the part which is located in the particular taxing district.

Example:

An application for farmland assessment covers 15 contiguous acres of land in agricultural use in one ownership; three acres are in taxing district "A", the remaining 12 acres are in taxing district "B". The three acres in taxing district "A" are deemed to meet the five-acre minimum area requirement, since it is the aggregate contiguous area, in one ownership, that determines area eligibility in such case, and not merely the area of the portion located in the individual taxing district. (See Section 3.2(c) (Contiguous land) of this Chapter).

Statutory References

As to the treatment of contiguous land in one ownership in more than one taxing district, see N.J.S.A. 54:4-23.18.

Case Notes

Single legal ownership for land within one taxing district not required for eligibility for farmland assessment. *Shein v. North Brunswick Tp.*, 9 N.J.Tax 1 (1986).

18:15-13.2 through 18:15-13.3 (Reserved)

SUBCHAPTER 14. STATE FARMLAND EVALUATION COMMITTEE

18:15-14.1 Creation

Under the Act, a State Farmland Evaluation Committee is created, the members of which are the Secretary of Agriculture; the Dean of the College of Agriculture, Rutgers—The State University; and the Director of the Division of Taxation.

Statutory References

As to creation of State Farmland Evaluation Advisory Committee, see N.J.S.A. 54:4-23.20.

18:15-14.2 Meetings and duties

The Committee meets from time to time on the call of the Secretary of Agriculture and annually determines and publishes a range of values for each of the several classifications of lands in agricultural and horticultural use in the various areas of the State.

Statutory References

As to meetings and duties of State Farmland Evaluation Advisory Committee, see N.J.S.A. 54:4-23.20.

18:15-14.3 Objectives

The primary objective of the Committee is the determination of the ranges in fair value of such land based upon its productive capabilities when devoted to agricultural or horticultural uses.

Statutory References

As to objective of State Farmland Evaluation Advisory Committee, see N.J.S.A. 54:4-23.20.

18:15-14.4 Considerations in determining value

(a) In making annual determinations of value, the Committee considers available evidence of agricultural and horticultural capability derived from the soil survey, data at Rutgers—The State University, the National Cooperative Soil Survey, and such other evidence of value of land devoted exclusively to agricultural or horticultural uses as it may in its judgment deem pertinent.

(b) On or before October 1 of each year, the Committee makes these ranges of fair value available to the assessing authority in each of the taxing districts in which land in agricultural or horticultural use is located.

Statutory References

As to considerations in determining value, as N.J.S.A. 54:4-23.20.

18:15-14.5 Effect of assessor

While values recommended by this Committee for the various classifications of land in agricultural or horticultural use in the various areas of the State are not binding upon the assessor, he is required by Section 7 of the Act to "... consider available evidence of agricultural and horticultural capability derived from the soil survey data at Rutgers—The State University, the National Cooperative Soil Survey and the recommendations of value of such land as made by any county or state-wide committee which may be established to assist the assessor ...," in determining the value of such land for assessment purposes under the Act.

Statutory References

As to the requirements that the State Farmland Evaluation Advisory Committee shall make their determination of the ranges of value available to the assessors, see N.J.S.A. 54:4-23.20.

18:15-14.6 Development of agricultural or horticultural use values by assessors

(a) The Director recommends that an assessor utilize the valuation standards established by the State Farmland Evaluation Advisory Committee in valuing farmland qualified property in accordance with N.J.S.A. 54:4-23.7.

(b) In the event, an assessor plans not to utilize the valuation standards established by the State Farmland Evaluation Advisory Committee in valuing qualified farmland, the assessor shall submit such alternate standards to the Director by November 1 of the pretax year, indicating his reasons for not following the Advisory Committee's recommendations. The assessor shall further submit a detailed explanation as to the procedure and valuation standards to be applied in valuing qualified farmland.

(c) After review of such information, the Director shall inform the assessor and the respective county board of taxation by December 10 of the pretax year as to the propriety of utilizing the alternate standard. If the Director advises against utilization of the alternate standard and the assessor, nevertheless, chooses to rely on such standard for establishing qualified farmland assessments, he shall give written notice to the Director and the county board of taxation no later than December 31 of the pretax year.

(d) The county board of taxation, after its review as provided under N.J.S.A. 54:4-46, shall direct the assessor to make such changes it deems necessary to accomplish qualified farmland assessments in accordance with the Farmland Assessment Act of 1964.

New Rule, R.1987 d.237, effective June 1, 1987.
See: 19 N.J.R. 447(b), 19 N.J.R. 987(b).