

CHAPTER 15
FARMLAND ASSESSMENT ACT

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

Source and Effective Date
R.2009 d.214, effective June 2, 2009.
See: 41 N.J.R. 722(a), 41 N.J.R. 2713(a).

Chapter Expiration Date
In accordance with N.J.S.A. 52:14B-5.1b, Chapter 15, Farmland Assessment Act, expires on June 2, 2016. See: 43 N.J.R. 1203(a).

Chapter Historical Note
Chapter 15, Farmland Assessment Act, was adopted before September 1, 1969.

Pursuant to Executive Order No. 66(1978), Chapter 15, Farmland Assessment Act, was readopted as R.1983 d.355, effective August 12, 1983. See: 15 N.J.R. 1082(a), 15 N.J.R. 1487(b).

Pursuant to Executive Order No. 66(1978), Chapter 15, Farmland Assessment Act, 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 expired on July 29, 1993.

Chapter 15, Farmland Assessment Act, was adopted as new rules by R.1993 d.481, effective October 4, 1993. See: 25 N.J.R. 2653(a), 25 N.J.R. 4604(b).

Pursuant to Executive Order No. 66(1978), Chapter 15, Farmland Assessment Act, was readopted as R.1998 d.421, effective July 21, 1998. See: 30 N.J.R. 1922(a), 30 N.J.R. 3066(b).

Chapter 15, Farmland Assessment Act, was readopted as R.2004 d.62, effective January 12, 2004. See: 35 N.J.R. 4044(b), 36 N.J.R. 1226(a).

Chapter 15, Farmland Assessment Act, was readopted as R.2009 d.214, effective June 2, 2009. See: Source and Effective Date.

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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, goats or aquatic organisms, and the breeding, boarding, raising, rehabilitating, training or grazing of any or all such animals, except that livestock shall not include dogs;

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.

“Aquaculture” means the propagation, rearing and harvesting for sale of aquatic organisms, in controlled or selected environments in which the farmer must actively intervene in the rearing process in order to effect, improve or increase production for the purpose of sale.

“Assessor” means the municipal tax assessor appointed pursuant to the provisions of N.J.S.A. 40A:9-1 *et seq.*

“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.

“Fees received for grazing” means only those fees which are actually paid in consideration for grazing and which reasonably reflect the value of the grazing provided. The income which would otherwise be imputed to the land used for grazing as established and determined by the State Farmland Evaluation Advisory Committee shall be prima facie evidence of those fees which reasonably reflect the value of the grazing provided.

"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.

"Immediate family member" means a person's spouse, child, parent, or sibling residing in the same household.

"Income imputed to land used for grazing" means values for the pasturing of livestock as established by the State Farmland Evaluation Advisory Committee.

"Pre-tax Year" means the calendar year immediately preceding the "tax year".

"Raising livestock" means the management, caring and feeding of livestock for the purpose of producing for sale as a farm product either the livestock themselves or products produced therefrom.

"Recreation and conservation purposes" means the use of lands for beaches, biological or ecological study, boating, camping, fishing, forests, greenways, hunting, natural areas, parks, playgrounds, protecting historic properties, water reserves, watershed protection, wildlife preserves, active sports, or a similar use for either public outdoor recreation or conservation of natural resources, or both.

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

"Seasonal agricultural labor housing" means dwelling units designed solely for lodging farm employees and their family members where such employees perform seasonal agricultural or horticultural labor on the contiguous land, five acres or more, qualifying for farmland assessment. Any housing which is either occupied by the landowner, the landowner's spouse, or their children, parents or siblings, or is not vacant annually for a minimum period of 90 continuous days during any period of 12 continuous months, shall not be deemed to be "seasonal agricultural labor housing."

"Seasonal farm market" means a facility utilized for the primary purpose of selling predominantly agricultural or horticultural products, and which is annually closed to business during the off season for a period of not less than 90 continuous days.

"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.

"Wetlands" means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

"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.

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

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

Added "Fees received for grazing", "Immediate family member", "Income imputed to land used for grazing", "Raising livestock", "Seasonal agricultural labor housing", and "Seasonal farm marketing"; and amended "Agricultural use" and "Assessor".

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

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

Amended "Agricultural use" and "Seasonal agricultural labor housing"; added "Aquaculture", "Recreation and conservation purposes", and "Wetlands".

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. Petkevics*, 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

(a) 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.

(b) In the case where an application is filed for lands not previously qualified for farmland assessment, the owner shall also submit a map of land use classes and soil groups as described in the Report of the State Farmland Evaluation Advisory Committee published annually each October 1.

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.
Amended by R.1997 d.405, effective October 6, 1997.
See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).
Added (b).

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.

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.
Amended by R.1997 d.405, effective October 6, 1997.
See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).
Amended revision date for Form FA-1.
Amended by R.2004 d.62, effective March 1, 2004.
See: 35 N.J.R. 4044(b), 36 N.J.R. 1226(a).
Deleted the last two sentences.

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. *Hovbitt, Inc. v. Township of Howell*, 138 N.J. 598, 651 A.2d 77 (1994).

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

18:15-2.5 Extension of time for filing

(a) The owner of land in horticultural or agricultural use may file an application after August 1, but before December 1 of the pre-tax year if the taxing district in which the land is located completes a revaluation of all real property in time to be reflected in the assessments for the next succeeding tax year, but not in sufficient time to permit applications to be made prior to the deadlines established pursuant to N.J.S.A. 54:4-23.13a.

(b) The assessor may grant an extension of time for filing the application for farmland assessment which extension shall terminate no later than September 1 of the year immediately preceding the tax year, in any event where it shall appear to the satisfaction of the assessor that failure to file by August 1 was due to:

1. The illness of the owner, and a certificate of a physician stating that the owner was physically incapacitated and unable to file or before August 1 and the application is filed with the assessor; or

2. The death of the owner or an immediate member of the owner's family and a certified copy of the death certificate and the application is filed with the assessor by the individual legally responsible for the estate of the owner, or the owner, as the case may be.

i. An assessor shall not approve an extension of time to file an application for farmland assessment in cases where the death of the owner or a member of the owner's immediate family occurred prior to January 1 of the pretax 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".

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), amended date from December 31 to December 1 and inserted reference to reassessment; and added (b).

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), inserted " but not in sufficient time to permit applications to be made prior to the deadlines established pursuant to N.J.S.A. 54:4-23.13a" at the end.

Statutory References

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

18:15-2.6 Application forms; original and one copy

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

(b) One copy of each application shall be forwarded to the county tax administrator prior to January 1 of the tax year. The county tax administrator shall review the applications as he or she deems necessary and forward them to the Local Property Branch in district order no later than February 15 of the same tax year.

(c) Each 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.

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

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

In (b), changed from two copies to one and forwarding date from January 10 to January 1, substituted county tax administrator for Local Property and Public Utility Branch, and added administrator review provision.

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), then 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, unless the owner indicates on the WD-1 form that there has been no change from the previous year, in which case it shall be submitted at least once every 10 to 15 years, consistent with the same period covered by the plan's recommendations. The assessor may require that the plan be submitted more frequently, but no more than once a year, in the assessor's discretion;

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) The practices listed on the WD-1 Form must be completed by the end of the calendar year.

(c) 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).

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), rewrote 1; inserted a new (b); and recodified former (b) as (c).

Case Notes

Determination by assessor in jurisdiction bordering township that property in that jurisdiction did not qualify for farmland assessment did not justify township's assessment of roll-back taxes at nonfarmland rates, where land in question remained in agricultural use. *Snyder v. Township of Sparta*, 16 N.J.Tax 321 (1997).

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 incorporating 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 and to provide for the sustainability of the forest. Such management recommendations and practices shall be prepared for a period of time not less than 10 years and not more than 15 years.

i. The schedule of activities shall summarize the prescribed meaningful and measurable management practices to be carried out in the 10 to 15 year time period as determined by the Woodland Management Plan.

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).

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), substituted "incorporating" for "in some combination of" following "forest stand" in 5, inserted "and to provide for the sustainability of the forest" at the end of the first sentence and " and not more than 15 years" at the end of the second sentence in 6.

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 dis-

allowance 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 (Reserved)

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

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

Section was "Transition rule initiating time for beginning of application or new conditions on woodland owners".

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 N.J.A.C. 18:15-3.2 through 3.5 must have been actively devoted to agricultural or horticultural use as defined in N.J.A.C. 18:15-6 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 2003, the land must have been actively devoted to agricultural or horticultural use during the entire period of the calendar years 2001 and 2002.

As amended, 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 tax year and calendar years.

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), amended N.J.A.C. references in the introductory paragraph and amended tax and calendar years in 1.

Statutory References

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

Case Notes

In an action by taxpayers, challenging denial of property tax exemption based on farmland assessment, summary judgment in favor of the town was proper where the farmland assessment plan was not written or filed more than two years prior, as required under N.J.S.A. 54:4-23.6, and where the land in question did not meet the definition of "actively devoted to agricultural or horticultural use for a full tax year," as defined in N.J.A.C. 18:15-3.1(a). *Alexandria Twp. v. Urban*, 21 N.J. Tax 298, 2004 N.J. Tax LEXIS 8 (Tax Ct. 2004).

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, sheds, seasonal farm markets selling predominantly agricultural products, seasonal agricultural labor housing, silos, cribs, greenhouses and like structures, lakes, dams, ponds, streams, irrigation ditches and like facilities is included, but land under the farmhouse, and such additional land as may be actually used in connection with the farmhouse, including, but not limited to, land used 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.

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

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

In (b), inserted "sheds ... seasonal agricultural labor housing,".

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

(a) 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.

(b) The application shall include an on-site inspection of the land at least once every three years.

1. The required three year inspection cycle is a minimum requirement. In any year where the assessor is not assured that land for which the annual application for farmland assessment has been received is actively devoted to an agricultural or horticultural use, he or she shall perform as many on-site inspections as may be reasonably necessary to establish the eligibility status of the land for the purpose of approving or disapproving said form.

2. The municipality may impose a fee for an on-site inspection of not more than \$25.00, except that contiguous and non-contiguous parcels of land under the same ownership would be subject to a single fee.

Amended by R.1997 d.405, effective October 6, 1997.
See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).
Added (b).

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;
5. Gross sales of agricultural or horticultural products; and
6. Fees received for boarding, rehabilitating or training livestock.

(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.

Amended by R.1997 d.405, effective October 6, 1997.
See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).
Added (b)6.

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 April 1 of the tax year.

(c) Any appeal of a denial of farmland assessment shall be governed by procedures provided for appeals in N.J.S.A. 54:3-21.

Amended by R.1997 d.405, effective October 6, 1997.
See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).

In (b), changed appeal date from August 15 to April 1; and added (c).

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

(a) 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 under structures or related apparatus, commonly known as seed starting plastic greenhouses or as a hoop house or polyhouse.

(b) In the valuation and assessment of farm structures, the assessor shall consider those indications of value which such structures have under the same standard of value applicable to all other real property. Assessors shall take into consideration the following criteria for the establishment of value:

1. **Cost less depreciation:** The cost approach is based on the premise that the cost new of a structure is the highest possible value. Costs may include, in addition to materials and labor, architect, engineering and permit fees, surveys, and site improvement costs. From this highest possible value is deducted accrued depreciation—both physical deterioration and functional and economic obsolescence;

2. **Alteration to existing structures:** The cost of alterations or modernization to an existing farm structure does not necessarily add to building value. Where major alterations or modernization definitely increases or adds to the value of the farm structure, the percentage appreciation is determined by estimating the probable increase in sales value or the increase in remaining economic life of the building;

3. **Specialized nature of buildings use:** Farm structures are designed and built for specific production uses within agriculture. Knowledge of building types, construction quality, useful life, and utilization is important in determining a value. For example, machinery sheds or livestock barns are generally of post frame construction, may be open on one side, and have a gravel or stone floor. Comparisons should be made with like structures, that is, a three sided livestock shed should be compared with other three sided livestock sheds;

4. **Depreciation:** The physical condition of agricultural buildings should be compared to the near-perfect condition of similar new buildings, based on detailed inspection of all components. A depreciation schedule for farm structures shall be used in the assessment of the physical condition of a building;

5. **Obsolescence:** This is loss in value due to internal or external deficiencies.

i. **Functional obsolescence** is a loss in value due to the instability of the structure to perform adequately the function it is used for. Functional obsolescence would result if a building has limited contribution to a farming operation by seeing technologically obsolete, such as a dairy barn with 30 tie-stall stanchions when the technological standard is for larger free-stall structures with milking parlors, or being totally unusable for the purpose for which it was built;

ii. **Economic obsolescence** of a structure with a specialized agricultural use is a loss in value as a result of impairment in utility and desirability caused by factors outside the property's boundaries. For example, commercial businesses dominating a former agricultural area leaves the remaining land under farm use uneconomical;

6. **Labor and materials:** Actual costs for labor and materials shall be considered in arriving at the value of a building. Most agricultural buildings constructed on farms are built using specialized farm building contractors or agricultural labor. For work done by farm employees, costs should be decreased 15 to 30 percent to reflect the proper wage rate and lower supervisory costs; and

7. **Municipal zoning:** Ordinances or codes may limit the use of a farm structure to agricultural purposes. When valuing a farm building, consideration shall be given to the permitted uses of the structure. The proximity of a farm structure to a farm dwelling shall also be taken into account since the valuation of both types of buildings may be adversely impacted.

Amended by R.1979 d.262, effective July 5, 1979.

See: 11 N.J.R. 304(b), 11 N.J.R. 415(b).

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

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

Added (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.

Case Notes

Under N.J.S.A. 54:4-23.16 and N.J.A.C. 18:15-5.3(b), a conveyance is not required in order to effect a split off or separation of non-farmed land from farmland for purposes of tax assessment. *Township of Wantage v. Rivlin Corp.*, 23 N.J. Tax 441, 2007 N.J. Tax LEXIS 6 (Tax Ct. 2007).

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

City erred in determining that greenhouses owned by a farm did not qualify for a farmland assessment pursuant to N.J.S.A. 54:4-23.12 because persons were allowed into the greenhouses to select plants; based on the definition of "agricultural use" under N.J.S.A. 54:4-23.3, greenhouses could not be disqualified merely because some sales-related activities occurred inside the structures. *Twp. of Monroe v. Gasko*, 182 N.J. 613, 868 A.2d 1022, 2005 N.J. LEXIS 190 (2005).

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).

Farmland Assessment Act required that for a parcel to qualify for farmland assessment as a woodlot, the written and approved woodland management plan required by the statute must be filed on or before January 1, two full years prior to the year for which farmland assessment is sought. *Alexandria Tp. v. Orban*, 21 N.J. Tax 298.

Amendments to property tax exemption statute requiring written woodland management plan for farmland assessment of woodlands were intended to provide a reasonable means of eliminating the widespread practice of indiscriminate cutting of woodlands to meet the earned income requirements of farmland assessment and to close tax loophole utilized by speculators and land developers. *Alexandria Tp. v. Orban*, 21 N.J. Tax 298.

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).

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).

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).

Taxpayer who cultivated and sold yews and azaleas on approximately one acre of his property failed to establish that appurtenant woodland was reasonably required for the purpose of maintaining the horticultural use of the land devoted to azaleas and yews; therefore, the taxpayer did not meet the 5-acre minimum requirement for a farmland assessment. *Kugler v. Wall*, 1 N.J. Tax 10, 1980 N.J. Tax LEXIS 77 (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.

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 (b)1 and 2, changed applicable years.
 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), amended the tax years throughout.

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 2001 and 2002, but not for 2003. A change in use occurs in June 2003. The land is subject to roll-back taxes for the tax years 2001, 2002 but is not subject to roll-back taxes for 2003 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).
 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, changed applicable years.
 Amended by R.2004 d.62, effective March 1, 2004.
 See: 35 N.J.R. 4044(b), 36 N.J.R. 1226(a).
 Amended the tax years throughout.

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 Tax Court of New Jersey on appeal taken and prosecuted in the same manner as other appeals to said Court.

(c) The notice of appeal is required to be filed with said Tax Court within 45 days of the service of the judgment of the county board of taxation.

Amended by R.1997 d.405, effective October 6, 1997.
 See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).

In (b) and (c), substituted references to Tax Court for references to Division of Tax Appeals; and in (c), amended filing date.

Statutory References

As to review of decisions of county board of taxations, 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, 2002 for farmland assessment for the tax year 2003. On November 15, 2002 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 2003 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 probation.

1. Example: A change in use takes place on November 15, 2002 but is not discovered by the assessor or the county board of taxation until June 1, 2003. In that event, the assessor will enter an added assessment against land on the Added Assessment List for 2003, in accordance with subsection (b) of this section. In addition, he shall impose roll-back taxes for such of the tax years 2002, 2001 and 2000, 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).

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 and (c)1, changed applicable years.

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

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

Amended the tax years throughout.

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).

Case Notes

Township assessor's failure, when valuing floricultural greenhouse operations, to follow regulations recommending that assessors use valuation standards established by Advisory Committee created by the Farmland Assessment Act, and requiring notifications by assessors if they elect not to use such standards, rendered assessor's valuations

invalid; regulations were valid and enforceable as they did not impose requirements beyond the scope and purposes of Act and served important function of promoting uniform assessment of farmland throughout the state. *Van Vugt v. Pequannock Township*, 20 N.J.Tax 129.

Even if township assessor had followed procedures contained in regulations on valuing farmland property, assessor's valuations of floricultural greenhouse operations were invalid, as assessor's valuation methodology did not establish value of subject properties as required by Farmland Assessment Act; assessor applied income methodology and used income and expenses from one greenhouse operator, assumed rest of operators' properties would reflect same results, valuation did not reflect the productive capability of operators' lands but rather was a function of the market value of crops planted and management skill of the farmer, and per acre price determined by assessor was more than forty-five times higher than highest per acre value under valuation methodology established by the Act. *Van Vugt v. Pequannock Township*, 20 N.J.Tax 129.