

Update to Publication 51
Questions and Answers on New York State's
Farmers' School Tax Credit

Note: This update supersedes Publication 51.1 dated April 2006. The current version of Publication 51 is dated 11/97.

Legislation passed by the legislature and signed into law by Governor Pataki during 1998, 1999, 2003, 2005, and 2006 provides new enhancements to the *Farmers' School Tax Credit*. In addition, information is added concerning several issues addressed in the original publication. The law changes and the additional information about the credit are explained below. Except as explained in this update, all other issues addressed in Publication 51 remain valid.

Legislative Changes

Part II - Eligible Farmer

For tax years **beginning on or after January 1, 2003**, the statutory definition of *eligible farmer* has been expanded. Taxpayers will meet the definition of *eligible farmer* if their:

- federal gross income from farming for the tax year is at least two-thirds of their excess federal gross income; or
- average of federal gross income from farming for the tax year and the two consecutive tax years immediately preceding that tax year is at least two-thirds of their excess federal gross income for the tax year.

Prior to the amendment, taxpayers met the definition of *eligible farmer* only if their federal gross income from farming for the tax year was at least two-thirds of their excess federal gross income.

The following revisions have been made to question 2 on page 5 and questions 3 and 4 on page 6.

For purposes of question 2, *What is considered farming for purposes of this credit?*, for tax years **beginning in 2006 and after**, a person is also engaged in the business of farming if the person is a shareholder of a New York C corporation that has made a special gross income from farming election on Form CT-47.1, *Election or Termination of Election to Deem Income for Purposes of the Farmers' School Tax Credit*.

In addition, *farming* will include commercial horse boarding operations as defined in section 301(13) of the Agriculture and Markets Law and the growing of Christmas trees, for purposes of transplanting or cutting from the stump, under a managed Christmas tree operation.

For purposes of question 3, *What is considered gross income from farming for an individual?*, and for question 4, *What is gross income from farming for a corporation?*, for tax years **beginning in 2006 and after**, gross income from farming will also include gross income from commercial horse boarding operations as defined in section 301(13) of the Agriculture and Markets Law, to the extent not included in farm income reported on the individual's or corporation's federal income tax return and gross income from the growing of Christmas trees, for purposes of transplanting or cutting from the stump, under a managed Christmas tree operation.

Also for purposes of question 3, for tax years **beginning in 2006 and after**, gross income from farming includes:

- your pro rata share of gross income from farming from a New York C corporation that has made a special gross income from farming election on Form CT-47.1;
- your pro rata share of your partnership's gross income from farming that represents the partnership's pro rata share of gross income from farming from a New York C corporation that has made a special gross income from farming election on Form CT-47.1; and
- your pro rata share of your New York S corporation gross income from farming that represents the S corporation's pro rata share of gross income from farming from a New York C corporation that has made a special gross income from farming election on Form CT-47.1.

Part III - Qualified Agricultural Property

For tax years **beginning in 2001 and thereafter**, the statutory definition of *qualified agricultural property* has been expanded to include land set aside or retired under a federal supply management or soil conservation program. (Note: This amendment merely confirms existing Tax Department policy that such property qualifies for the credit: See Part III, question 10, on page 11.)

Also, for tax years **beginning in 2006 and after**, the definition of *qualified agricultural property* includes land that at the time it becomes subject to a conservation easement would have been *qualified agricultural property*. (Note: Prior to this amendment, land that was subject to a conservation easement would have been *qualified agricultural property* **only** if such land was used in agricultural production.)

Part IV: Eligible Taxes

The answer to question 1 on page 13 states that only real property taxes levied by a school district on qualified agricultural property **owned** by the taxpayer qualify for the credit. For tax years **beginning in 1999 and thereafter**, in the case of the sale of qualified agricultural property under a land sales contract,* the buyer will be treated as the owner of the property if the following conditions are met:

- the buyer must be obligated under the land sales contract to pay the school district property taxes on the purchased property; and
- the buyer must be entitled to deduct those taxes as a tax expense for federal income tax purposes.

A buyer who meets these conditions will be considered the owner even though legal title to the property (i.e., the deed) has not been transferred to the buyer. Accordingly, the buyer, if an eligible farmer, will be entitled to claim the credit (subject to the credit limitation based on income).

Note: If the buyer is treated as the owner under these provisions, the seller may not claim the credit for the same property.

For tax years **beginning in 2005 and after**, eligible school district property taxes levied by a school district on qualified property owned by the taxpayer's father, mother, grandfather, grandmother, brother, or sister qualify for the credit if (1) the taxpayer has a written agreement with the owner(s) that the taxpayer intends to eventually purchase that qualified agricultural property, even if the taxpayer did not actually pay the school district property taxes on the qualified agricultural property, and (2) the owner(s) has given the taxpayer a document stating that the owner(s) is waiving his/her right to claim the credit, if any, on the qualified agricultural property that is subject to the written agreement.

The written agreement does not have to be in any particular legal form but it must be signed by all parties to the agreement and must have been in effect for at least part of the tax year to which the credit relates. The waiver document does not have to be in any particular form, but it can be for only one tax year and must include (1) the name of the owner(s), (2) the name of the relative with whom the owner(s) has entered into a written agreement to sell his/her qualified agricultural property, (3) a statement that the owner(s) is waiving his or her right to claim the farmers' school tax credit, (4) the tax year to which the waiver applies, (5) the date the agreement to sell was entered into, and (6) the signature of the owner(s). The waiver document must be given to the taxpayer even if the owner(s) does not qualify to claim the farmers' school tax credit on the property. Once the waiver is made for a tax year, it cannot be revoked for that tax year, but the owner(s) may decide whether or not to issue a waiver for any subsequent tax year.

* A land sales contract, commonly referred to as an *installment land contract*, is an agreement to transfer land ownership in exchange for a series of principal and interest payments. The seller does not transfer formal title to the property to the buyer until all or a certain number of payments are made. A land sales contract may also be referred to as *contract for deed*, *bond for deed*, *conditional sale of real estate*, *contract for sale of land*, and *land contract*. A *lease with an option to purchase* type arrangement is not a land sales contract.

Part V: Base Acreage and Related Party Rules

Under question 2, on page 15, the base acreage amount of 250 acres will now apply to tax years **beginning after 1997 and before 2006**. Previously, this increase was scheduled to take effect for tax years beginning in 1999 and thereafter. For tax years **beginning in 2006 and after**, the base acreage amount is increased to 350 acres.

Also, for tax years **beginning in 2001 and thereafter**, the base acreage amount is increased by acreage enrolled or participating in a federal environmental conservation acreage reserve program pursuant to Title Three of the Federal Agricultural Improvement and Reform Act of 1996. This provision will allow farmers who participate in this program and whose acres of qualified agricultural property exceed the base acreage amount to receive a larger Farmers' School Tax Credit.

Example: For tax year 2001, a farmer owns 300 acres of qualified agricultural property. Thirty acres of that property are enrolled or participating in a federal environmental conservation acreage reserve program pursuant to Title Three of the Federal Agricultural Improvement and Reform Act of 1996. Assuming the farmer otherwise qualifies for the Farmers' School Tax Credit, the farmer's base acreage amount for 2001 will be 280 acres (250 + 30). Accordingly, for 2001, the farmer will receive a credit of 100% of the school taxes paid on 280 acres of property and a credit for 50% of the taxes paid on 20 acres of property. Under prior law, the farmer would have only received a 100% credit for the taxes paid on 250 acres of property and a 50% credit for the taxes paid on the remaining 50 acres of property.

Part VI: Credit Limitation Based on Income

For tax years **beginning in 2006 and after**, the income limitation for purposes of determining credit eligibility is increased. The phaseout of the credit now occurs if the farmer's modified New York adjusted gross income or modified entire net income is between \$200,000 and \$300,000, with no credit allowable if the taxpayer's modified adjusted gross income or entire net income is over \$300,000. Previously, this phaseout occurred when the farmer's modified New York adjusted gross income or modified entire net income was between \$100,000 and \$150,000, with no credit allowable if the taxpayer's modified adjusted gross income or modified entire net income was over \$150,000.

Appendix A: Federal Gross Income for Individuals

Appendix A is revised to provide that for tax years **beginning in 2006 and after**, federal gross income from all sources includes:

- your pro rata share of gross income from a New York C corporation that has made a special gross income from farming election on Form CT-47.1, *Election or Termination of Election to Deem Income for Purposes of the Farmers' School Tax Credit*, and
- your pro rata share of your partnership's gross income and your pro rata share of your New York S corporation gross income that represents the partnership's and S corporation's pro rata share of gross income from a New York C corporation that has made a special gross income from farming election on Form CT-47.1.

Note: This information should be obtained from the New York C corporation, the partnership, and the New York S corporation.

Appendix B: Federal Gross Income *From Farming* for Individuals

Appendix B is revised to provide that for tax years **beginning in 2006 and after**, gross income from farming also includes:

- gross income from commercial horse boarding operations as defined in section 301(13) of the Agriculture and Markets Law, to the extent not included in farm income reported on the individual's federal income tax return and gross income from the growing of Christmas trees, for purposes of transplanting or cutting from the stump, under a managed Christmas tree operation,

- your pro rata share of gross income from farming from a New York C corporation that has made a special gross income from farming election on Form CT-47.1, *Election or Termination of Election to Deem Income for Purposes of the Farmers' School Tax Credit*, and

- your pro rata share of your partnership's gross income from farming and your pro rata share of your New York S corporation gross income from farming that represents the partnership's and S corporation's pro rata share of gross income from farming from a New York C corporation that has made a special gross income from farming election on Form CT-47.1.

Note: This information should be obtained from the New York C corporation, the partnership, and the New York S corporation.

Appendix D: Federal Gross Income *From Farming* for Corporations

Appendix D is revised to provide that for tax years **beginning in 2006 and after**, gross income from farming also includes gross income from commercial horse boarding operations as defined in section 301(13) of the Agriculture and Markets Law, to the extent not included in farm income reported on the corporation's federal income tax return and gross income from the growing of Christmas trees, for purposes of transplanting or cutting from the stump, under a managed Christmas tree operation.

Additional Information

Part III: Qualified Agricultural Property

The answer to question 1 on page 10 states that a structure or building is not qualified agricultural property if it is used for the **processing** of agricultural commodities. However, in the case of the production of maple syrup and cider, and the sale of wine from a farm winery, buildings and structures used to process the sap into syrup, the apples into cider, or the grapes into wine **are** considered qualified agricultural property even though the property is used in processing.

Part VI: Credit Limitation Based on Income

Under question 5 on page 17, for purposes of computing modified New York adjusted gross income, *farm indebtedness* does not include debt, or that portion of the debt, that is secured by the farmer's principal residence, even if the proceeds of the loan are used for farm expenditures.

Part VII: Credit Recapture

The answer to question 1 on page 19 contains examples showing how the recapture rules apply when qualified agricultural property is converted to nonqualified use. The following additional example illustrates the recapture rules that apply when a farmer acquires additional qualified agricultural property in a year after the year in which the farmer first claimed the credit.

Example: A farmer first claims the credit for tax year 1997. The credit is claimed on 100 acres of qualified agricultural property. In 1998, the farmer purchases an additional 100 acres of qualified agricultural property and claims the credit for 1998 on the total 200 acres of qualified agricultural property. On June 1, 2000, the entire property is converted to nonqualified use. In this instance, no credit is allowed for the year 2000. However, since the conversion took place after the end of the second year following the year in which the farmer **first** claimed the credit (1997), the farmer is not required to add back the credit claimed in 1997, 1998, or 1999. This is so even though 100 acres of the converted property were not purchased until 1998, and the credit on that portion of the converted property was first claimed in 1998.

Part VIII: Disallowance of Deduction for School Taxes

The answer to question 1 on page 21 states that you must include the amount of your credit in your New York adjusted gross income or entire net income in the tax year following the year for which the credit is allowed. However, you **do not** have to make this adjustment if you were required to report the amount of the credit as income on your federal income tax return in the tax year following the year for which the credit is allowed.

Appendix A: Federal Gross Income for Individuals

Item 8 states that capital gains from federal Schedule D are to be included in federal gross income from all sources. However, if you had capital gain distributions from a mutual fund but were not required to file federal Schedule D for the year, include in federal gross income any capital gain distributions you entered on line 13 of federal Form 1040.