

STATE TAX COMMISSION
QUALIFIED AGRICULTURAL PROPERTY
EXEMPTION GUIDELINES



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Introduction:

- **What is the qualified agricultural property exemption?**

The qualified agricultural property exemption is an exemption from certain local school operating millages for parcels that meet the qualified agricultural property definition.

- **Does the qualified agricultural property exemption completely eliminate parcels property taxes?**

Not completely. Property taxes are determined by multiplying a parcel's taxable value by an overall millage rate: **Taxable Value X Millage Rate = Property Taxes**

Some property tax exemptions eliminate the taxable value of property receiving the exemption. The qualified agricultural property exemption has no effect on the taxable value of parcels receiving the exemption. Instead, the qualified agricultural property exemption reduces but does not eliminate property taxes by reducing the overall millage rate for parcels receiving the exemption.

- **How does the qualified agricultural property exemption affect the property taxes for a parcel i.e. what is the benefit to a property owner?**

A parcel that is a qualified agricultural property is entitled to an exemption from certain local school operating taxes; typically up to 18 mills.

Additionally a transfer of qualified agricultural property is not considered a transfer of ownership if both of the following are true:

1. The property remains qualified agricultural property after the transfer and
2. The new owner files Form 3676 with the assessor and the register of deeds. This form, available in the appendix, is an affidavit attesting that qualified agricultural property shall remain qualified agricultural property.

- **Is the qualified agricultural property exemption the same as the homeowner's principal residence exemption (formerly known as the homestead exemption)?**

No, although the qualified agricultural property exemption and the homeowner's principal residence exemption both provide an exemption from the same local school operating taxes, the requirements for obtaining these two exemptions are different. For information regarding the homeowner's principal residence exemption, please see the *Guidelines for the Michigan Homeowner's Principal Residence Exemption Program*.

- **Is it possible for a parcel to qualify for both the qualified agricultural property exemption and the homeowner's principal residence exemption?**

The State Tax Commission (STC) has directed that property which is receiving the homeowner's principal residence exemption **cannot** also be qualified agricultural property. In the opinion of the STC, the homeowner's principal residence exemption takes priority over the qualified agricultural property exemption.

However, in very unusual circumstances it is possible for one parcel to qualify for both exemptions at the same time by receiving a partial exemption for each, explained in a later section.

Exemption Requirements:

- **What are the main requirements for a parcel to be eligible for the qualified agricultural property exemption?**

To be eligible for the exemption, a parcel has to be qualified agricultural property. A parcel can become a qualified agricultural property in two ways:

1. Classification of the parcel as agricultural on the current assessment roll **or**
2. Devotion of more than 50% of the acreage of the parcel to agricultural use as defined by law (MCL 324.36101).

- **Does my parcel have to be classified as agricultural by the assessor to be eligible for the qualified agricultural property exemption?**

No, a parcel that is classified residential, for example, can be eligible for the qualified agricultural property exemption provided that more than 50% of the parcel's acreage is devoted to an agricultural use as defined by law.

- **If my parcel is classified agricultural does more than 50% have to be devoted to agricultural use to be eligible for the qualified agricultural property exemption?** No. Example: an unimproved 40-acre parcel classified agricultural is entitled to the qualified agricultural exemption even if only 10 acres (less than 50% of the parcel's acreage) is devoted to a defined agricultural use.

Note: Assessors must establish the classification of parcels in accordance with MCL 211.34c. When determining the classification of a parcel, assessors must not consider the effect of the classification on the parcel's eligibility for the qualified agricultural property exemption.

- **Are there any other requirements for a parcel to be eligible for the qualified agricultural property exemption?**

Yes. Owners of parcels that are not classified agricultural must file an affidavit claiming the exemption with the local assessor by May 1; Claim for Farmland Exemption from some School Operating Taxes Form 2599. This form is available on the State Tax Commission web site. Owners of property that is classified agricultural, are not normally required to file this affidavit to obtain the exemption.

- **Are there circumstances where a property owner, whose parcel is classified agricultural on the assessment roll, would be required to file the Claim for Farmland Exemption from some School Operating Taxes Form 2599?**

An assessor may request that this form be filed to determine if the parcel contains structures that are not exempt as qualified agricultural property.

- **What day is used to determine a parcel's eligibility for the qualified agricultural property exemption?**

The status day for the qualified agricultural property exemption is May 1. When determining a parcel's eligibility for the qualified agricultural property exemption, an assessor is to consider the relevant facts for that parcel as of May 1 of the year the exemption is being considered.

In some situations, land may not be actively farmed on May 1, yet the parcel containing the land may still be eligible for the qualified agricultural property exemption. For example, the land may be intentionally left fallow; the growing season for a crop in some parts of the state may begin after May 1, etc. For information on fallow land, see the definition of agricultural use later in this document.

- **If a parcel is not classified agricultural by the assessor and is not devoted primarily to an agricultural use as defined by law, can that parcel receive the qualified agricultural property exemption if the parcel is contiguous with other parcels under the same ownership which are farmed?**

No, a parcel's eligibility for the qualified agricultural property exemption is determined solely by the characteristics of **that** parcel. A parcel not devoted primarily to agricultural use, cannot receive the qualified agricultural property exemption even if surrounding parcels under the same ownership are devoted primarily to agricultural use or are classified agricultural.

- **If a parcel is not classified agricultural, is the percentage of a parcel that is devoted to agricultural use calculated based on the portion of the parcel's total acreage that is devoted to agricultural use or on the portion of the parcel's tillable acreage that is devoted to agricultural use?**

The percentage of a parcel that is devoted to agricultural use is calculated based on the portion of the parcel's **total acreage** that is devoted to agricultural use, **not** the portion of the parcel's **tillable acreage** that is devoted to agricultural use.

Example: A 15-acre parcel is classified residential. Of the parcel's 15 acres, 4 acres are tillable and are devoted to an agricultural use as defined by law. The remaining 11 acres are not devoted to an agricultural use. The parcel is not eligible for the qualified agricultural property exemption since the parcel is not classified agricultural and only 26.7 percent of the parcel is devoted to a defined agricultural use, even though 100.0 percent of the tillable acreage of the parcel is devoted to a defined agricultural use.

- **Does total acreage used in the calculation include acreage under a public right-of-way for road or drain purposes?**

Yes, the percentage of a parcel that is devoted to agricultural use is calculated based on the parcel's **total acreage**. **Total acreage** includes any area within the parcels ownership including any area(s) covered by an easement or right-of-way for road or drain purposes. This is true even though the area under a public road right-of-way or a public (surface) drain right-of-way is exempt from taxation. The area of such a public right-of-way is still part of the parcel despite any exemption provided for that area.

- **Does the fact that farmland is rented but still farmed affect the eligibility of the parcel containing the farmland for the qualified agricultural property exemption?**

No. The fact that farmland is rented by the owner is generally not a consideration in determining a parcel's eligibility for the qualified agricultural property exemption. The primary considerations are (1) whether the parcel is classified agricultural on the assessment roll and (2) whether more than half the parcel's acreage is devoted to an agricultural use as defined by law.

- **What if I lease my farmland to be used as a cell tower site?**

The leasing of land with the land being used for a commercial or industrial purpose (such as a cell tower site or an oil or gas well site) would adversely affect the parcel's eligibility for the qualified agricultural property exemption. See the section on partial exemptions in this document.

- **Does the fact that a house on a farm parcel is rented to a farmhand affect the eligibility of the parcel for the qualified agricultural property exemption?**

No, the fact that the house on a parcel is rented to a farmhand is not a consideration in determining the parcel's eligibility for the exemption. Under the law, for a residence to be qualified agricultural property, the residence must be occupied by someone who is either employed in or actively involved in the agricultural use on the property and who has not claimed a homeowner's principal residence exemption on other property. A house that is rented to a farmhand is considered to be 'related building'.

Note: The leasing of a structure on a farm parcel for a commercial or industrial purpose (such as a barn rented for storage of boats, cars, etc.) would adversely affect the parcel's eligibility for the qualified agricultural property exemption. See also the section on partial exemptions in this document.

- **Does the implementation of a wildlife risk mitigation action plan affect the qualified agricultural property exemption?**

No, P.A. 320 of 2011 amended 211.7dd to specifically indicate that a property shall not lose its status as qualified agricultural property as a result of an owner or lessee of that property implementing a wildlife risk mitigation action plan.

- **If I lost my qualified agricultural exemption status as a result of implementation of a wildlife risk mitigation action plan, do I have any appeal rights?**

If after December 31, 2008, the classification of your property was changed as a result of the implementation of a wildlife risk mitigation action plan, the owner of the property may appeal the classification change (not the change in qualified agricultural exemption) to the March Board of Review in 2012, 2013 and 2014 only.

Related Buildings

- **Can an improved parcel be eligible for the qualified agricultural property exemption?**

Yes, an improved parcel can be eligible for the qualified agricultural property exemption. Property, including related buildings, that is qualified agricultural property can receive the qualified agricultural property exemption. Whether or not it contains improvements, a parcel must either be classified agricultural on the assessment roll or have more than half its acreage devoted to an agricultural use to be qualified agricultural property.

- **What are “related buildings”?**

Related buildings are structures on a parcel that are in some way part of the agricultural operation or use **on that parcel**. Examples of related buildings can include barns, sheds, poultry houses, etc. Additionally, related buildings are defined in the law to include a residence occupied by a person employed in or actively involved in the parcel’s agricultural use and who has not claimed the homeowner’s principal residence exemption on other property.

Buildings of any type (or land) used for commercial or industrial purposes **are not** qualified agricultural property and **are not** entitled to the qualified agricultural property exemption. This is true even if the parcel containing the buildings is classified agricultural on the assessment roll and even if more than half the parcel’s acreage is devoted to an agricultural use as defined by law. Commercial purposes include, but are not limited to, commercial storage, commercial processing, commercial distribution, commercial marketing, and commercial shipping operations.

- **An unoccupied house is located on a 160-acre parcel classified agricultural on the assessment roll. Of the 160 acres, 158 are farmed. The house is on the other 2 acres. How should this parcel be treated for the qualified agricultural property exemption?**

The parcel is entitled to the qualified agricultural property exemption because it is classified agricultural by the assessor on the assessment roll.

However, for a residence to be a related building and be entitled to the qualified agricultural property exemption, the residence **must be occupied** by someone employed in or actively involved in the farming operation who has not claimed a homeowner’s principal residence exemption on other property. Because this house is not occupied, it is not a related building and not entitled to the qualified agricultural property exemption. In this case, the parcel would be entitled to a partial exemption.

Other examples where buildings would not qualify include: a house rented to someone who is not employed in or not actively involved in the farming operation; or a house occupied by someone (including the owner) employed in or actively involved in the farming use but who has claimed a homeowner’s principal residence exemption on other property.

- **A house is located on a 1/2 acre parcel, not classified agricultural with no agricultural use. The owner of the parcel owns and operates a 40 acre farming operation adjacent to the 1/2 acre parcel. The house is occupied by the owner of the farm who has not claimed a homeowner’s principal residence exemption on other property. Is the 1/2-acre parcel eligible for the qualified agricultural property exemption?**

No. The qualified agricultural property exemption is decided on a parcel-by-parcel basis. To be eligible for the qualified agricultural property exemption, a structure must be a related building and must be located on a parcel that is classified agricultural or that is devoted primarily (i.e., more than 50 percent of the parcel's acreage) to agricultural use as defined by law. However, the ½ acre parcel may qualify for the principal residence exemption.

- **Is a barn located on a parcel that is classified agricultural on the assessment roll (or located on a parcel that is devoted primarily to agricultural use) entitled to the qualified agricultural property exemption if the barn is not devoted at all to an agricultural use?**

No. In the opinion of the State Tax Commission, for a barn or other related building to be entitled to the qualified agricultural property exemption, that related building must itself be devoted primarily (more than half its area) to an agricultural use as defined by law. Therefore, a barn that is not devoted at all to a defined agricultural use or that is not more than half devoted to an agricultural use is not entitled to the qualified agricultural property exemption.

Partial Exemptions

- **What happens if a parcel has a commercial marketing operation or a barn used for commercial storage on it but the parcel otherwise qualifies for the qualified agricultural property exemption?**

The parcel would receive a partial qualified agricultural property exemption. The portion of the parcel's total state equalized valuation (SEV) related to the property that is used for the commercial marketing operation or the barn used for commercial storage is not entitled to the qualified agricultural property exemption.

In these situations the partial exemption percentage is determined based on the SEV of the portion of the parcel entitled to the exemption in relation to the SEV of the entire parcel. The percentage of the exemption is **not** based on the **size (i.e., area)** of the portion of the parcel entitled to the exemption; it is based on value.

Example: 38 acres of a 40 acre parcel classified agricultural by the assessor is farmed. The only improvement to the parcel is a structure on the remaining 2 acres that is used seasonally to sell produce. The total SEV for the parcel is \$42,000, with the structure and 2 acres having an SEV of \$8,000. The parcel is entitled to a qualified agricultural property exemption because it is classified agricultural, however it is entitled only to a partial exemption because a portion of the parcel is devoted to a commercial marketing operation. The partial qualified agricultural property exemption is 81%; \$8,000 SEV of the commercial marketing operation property ÷ \$42,000 total SEV of the parcel = 19% subtracted from 100%.

- **What happens if a parcel has a residence on it that is not a related building but the parcel still qualifies for the qualified agricultural property exemption?**

The parcel would receive a partial qualified agricultural property exemption calculated using the same method as in the preceding example.

- **Property which has been granted a homeowner's principal residence exemption cannot also receive the qualified agricultural property exemption. Is it possible for a parcel receiving a partial homeowner's principal residence exemption to also receive a partial qualified agricultural property exemption?**

Yes. Although very unusual, the portion of the parcel which otherwise qualifies for the qualified agricultural property exemption and is not receiving the homeowner's principal residence exemption can receive the qualified agricultural property exemption.

Example: A 40 acre parcel is classified residential. The parcel is improved with a house that is occupied by the owner. The rear 30 acres of the parcel are unimproved and rented by the owner to someone who farms the 30 acres. The parcel has been granted a partial homeowner's principal residence exemption because the rear 30 acres are rented. Under these circumstances, the owner can also claim a partial qualified agricultural property exemption for the parcel since more than 50 percent of the parcel's acreage is devoted to an agricultural use. The portion of the property receiving the homeowner's principal residence exemption (the house and the front 10 acres) is not entitled to the qualified agricultural property exemption. The partial qualified agricultural property exemption would be determined based on the value of the property entitled to the exemption (the rear 30 acres) compared to the value of the entire parcel.

- **An unimproved 40-acre parcel is classified residential on the assessment roll. The parcel has 15 acres of tillable land that is farmed, with the remaining 25 acres of the parcel being swamp and wetlands (and not devoted to an agricultural use as defined by law). Can this parcel receive a partial qualified agricultural property exemption?**

No. The parcel is not classified agricultural and less than 50 % of the parcel's acreage is devoted to an agricultural use as defined by law. For these reasons, the parcel is not entitled to a partial (or a full) qualified agricultural property exemption, even though a portion of the property is actually farmed.

- **Does the presence of a cell tower site (or an oil or gas well) on a parcel affect the parcel's eligibility for the qualified agricultural property exemption even**

though the cell tower (or the oil or gas well) only occupies a small portion of the parcel?

Yes, any part of property no matter how small a portion of a parcel that is devoted to a commercial or industrial use is **not** entitled to the qualified agricultural property exemption. If a farm parcel with a cell tower site on it (or an oil or gas well on it) otherwise qualifies for the qualified agricultural property exemption, the parcel would receive a partial qualified agricultural property exemption. The exemption would not be applied to the value of the portion of the property (including any access road, etc.) devoted to the cell tower (or the oil or gas well).

Definition of Agricultural Use

- **What is the definition of “agricultural use”?**

The definition of “agricultural use” contained in MCL 324.36101 which applies to the qualified agricultural property exemption is:

“Agricultural use” means the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. Agricultural use includes use in a federal acreage set-aside program or a federal conservation reserve program. Agricultural use does not include the management and harvesting of a woodlot.

Note: While they are similar, the definition of “agricultural use” differs from the definitions used to determine a parcel’s classification. The definition of “agricultural use” is not to be used in determining a parcel’s classification. Similarly, the definition for classification contained in MCL 211.34c is not to be used in determining whether a parcel is devoted primarily to agricultural use for the qualified agricultural exemption.

- **Is there a minimum parcel size for a parcel to be considered qualified agricultural property?**

No, there are no specific parcel size requirements in the definition of “qualified

agricultural property”. Even very small parcels can be entitled to the qualified agricultural property exemption.

- **Is there a minimum income or income per acre requirement for a parcel to be considered qualified agricultural property?**

No, there are no minimum income requirements in the definition of “qualified agricultural property”. Even relatively unproductive or unprofitable parcels can be entitled to the qualified agricultural property exemption.

- **Is the raising of horses for sale an agricultural use for purposes of the qualified agricultural property exemption?**

Yes. As defined by MCL 324.36101 property devoted to the production of animals useful to humans meets this definition of “agricultural use”. Raising horses for sale can take many forms. For example horses that are raised and trained for sale as race horses or horses that are raised and sold to others for their personal use (for riding, etc.) Note: The raising of horses is now included in the definition of Agricultural Real Property under MCL 211.34c.

Example: A 60-acre parcel is classified residential. This parcel is improved with a stable, corrals for horses, and a banked dirt race track with no other improvements on the parcel. All 60 acres of the parcel are used to raise the parcel owner’s horses and train them to be race horses. The property in this example is devoted to the production of animals useful to humans and is, therefore, devoted to an agricultural use as defined by law for purposes of the qualified agricultural property exemption.

- **Is the boarding of horses or the training of someone else’s horses an agricultural use for purposes of the qualified agricultural property exemption?**

Yes. The property in this example is devoted to the production of animals useful to humans and is, therefore, devoted to an agricultural use as defined by law for purposes of the qualified agricultural property.

- **In the definition of “agricultural use” what is meant by “captive cervidae”?**

Captive Cervidae are a group of animals including deer, reindeer, moose, and elk that are held in captivity. The breeding and grazing of captive cervidae includes farms where cervidae (elk, moose, deer, etc.) are held and raised for the same or similar purposes as are customary in the breeding and grazing of other animals such as cattle which is a defined agricultural use for purposes of the qualified agricultural property exemption.

- **Is the harvesting of timber for pulp or lumber an agricultural use for purposes of the qualified agricultural property exemption?**

No. The definition of “agricultural use” contained in the law that pertains to the qualified agricultural property exemption explicitly states, “...Agricultural use does not include the management and harvesting of a Woodlot.”

Note: It is the opinion of the State Tax Commission that the harvesting of timber for pulp or lumber is also **not** an agricultural operation for purposes of property classification under the statute governing property classification (MCL 211.34c).

- **Is a sugar bush (i.e., maple syrup) operation an agricultural use for purposes of the qualified agricultural property exemption?**

Yes. The law defining “agricultural use” under MCL 324.36101 now includes the harvesting of sap for maple syrup production. However, the processing of sap into maple syrup is not an agricultural operation.

- **Is the growing and harvesting of Christmas trees an agricultural use for purposes of the qualified agricultural property exemption?**

Yes. Growing and harvesting Christmas trees has been defined in the law as an agricultural use for purposes of the qualified agricultural property exemption.

- **Is the production of ornamental trees (used for landscaping) an agricultural use for purposes of the qualified agricultural property exemption?**

Yes. Property devoted to the production of ornamental trees and other nursery and bedding plants (including the greenhouses used to grow these plants) is property devoted to an agricultural use for purposes of the qualified agricultural property exemption. However, property, including greenhouses, used primarily to sell or market plants is not entitled to the qualified agricultural property exemption. The retail sale of plants is a commercial activity and property devoted primarily to this activity is not qualified agricultural property.

- **Are lands in a federal acreage set-aside program or a federal conservation reserve program (CRP) devoted to an agricultural use for purposes of the qualified agricultural property exemption?**

Yes. The definition of “agricultural use” includes enrollment of lands in a federal acreage set-aside program and lands in a CRP as an agricultural use.

Generally speaking, these programs pay property owners not to farm (although some such programs do allow continued farming of the enrolled property). Under

these programs, the owners may also be required to plant ground covers, thin trees, enhance wetlands, develop wildlife habitat, etc. If property is enrolled in a federal acreage set-aside program or a CRP, the owner will have a contract for a specific number of acres. It is advisable for an assessor to examine such contracts to determine how many acres are enrolled in these programs. Additionally, since these contracts are generally issued for 10 to 15 years, it may also be advisable for the assessor to verify that a contract is still active by contacting the appropriate State or federal agency.

- **Is land which is being left fallow considered to be devoted to an agricultural use as defined by law for the qualified agricultural property exemption?**

Yes, under certain conditions. Land that is left fallow for multiple years or indefinitely is not devoted to an agricultural use. Leaving land fallow for a single growing season to allow the soil to recharge can be considered a recognized and legitimate agricultural practice and devoted to an agricultural use for purposes of the qualified agricultural property exemption. Land not actively being farmed may be enrolled in a federal acreage set-aside program or a federal conservation reserve program. Please see above.

- **Is land which is tillable but not farmed considered to be devoted to an agricultural use for the qualified agricultural property exemption?**

No. Land which is tillable but not actively farmed is not devoted to an agricultural use for the qualified agricultural property exemption. Note: please see above discussion of federal set aside programs.

- **Is land covered by a Farmland Development Rights Agreement (*Public Act 116 Land*) considered to be devoted to an agricultural use for the qualified agricultural property exemption?**

Not necessarily. Under these agreements, a temporary restriction on the land is established between the State and a landowner (voluntarily entered into by the landowner). The objective of the restriction is to preserve the land for agriculture, in exchange for certain (income) tax benefits and exemption from various special assessments. It is possible, and often happens, that parcels covered by these agreements are considered to be devoted to an agricultural use. However, the fact that land is enrolled in such an agreement is not the determining factor whether the land is devoted to an agricultural use. Rather, it is the **actual use of the property** that is relevant in making this determination. If property is covered by a Farmland Development Rights Agreement, but no agricultural use as defined by law exists on the land, the land is not devoted to an agricultural use as defined by law.

- **Is the acre-to-animal ratio important in relation to the qualified agricultural**

property exemption?

If a parcel is not classified agricultural and a determination must be made of the percentage devoted to agricultural use, the proper acre-to-animal ratio is often needed. The “acre-to-animal ratio” is the number of acres it takes to support 1 of that animal. For instance, it may typically take 3 acres to support 1 dairy cow. The acre-to-animal ratio for dairy cows would then be 3 to 1.

Given the number and type of animals involved in a farm operation, the number of acres legitimately needed to support those animals can be determined using acre-to-animal ratio(s). This will allow an accurate determination of the area truly devoted to an agricultural use. The area of a parcel, if any, that is not needed to support the number of animals on that parcel is not devoted to an agricultural use, even if the excess area is fenced as pasture land (assuming the excess area is not devoted to another agricultural use as defined by law).

Example: An 80-acre parcel is classified residential and is unimproved with the exception of fencing for pastures; all 80 acres are fenced. Over the last several years, the owner of the property has maintained a herd of 5 dairy cows on the property, with no other animals and no other agricultural use on the property. If the standard acre-to-animal ratio for dairy cattle is 3 acres to every 1 cow, this parcel is not entitled to the qualified agricultural property exemption because it is not classified agricultural and more than half the parcel's acreage is not devoted to an agricultural use. In this case, only 15 of the 80 acres are needed to support the herd of dairy cattle (3 acres needed to support each dairy cow x 5 dairy cows = 15 acres needed to support the dairy herd). Since more than 40 acres of the parcel must be devoted to an agricultural use to be qualified agricultural property the parcel is not entitled to the qualified agricultural property exemption.

- **What is a reasonable acre-to-animal ratio for use in determining the percentage of a parcel's area that is devoted to agricultural use as defined by law?**

There is no rule of thumb standard that can be applied to all types of animals. Reasonable acre-to-animal ratios likely differ depending upon the type of animal involved, and perhaps on the quality of the land involved. For example, dairy cows may have different grazing area requirements than cattle raised for beef. If the number of acres needed to support the animals on a parcel is in question, research will need to be done to establish a reasonable acre-to-animal ratio for the type(s) of animal involved and, if necessary, for the type of land involved.

Classification Appeals and Change in Classification

- **What happens if the March board of review changes a parcel's classification to agricultural real property?**

If the March board of review changes a parcel's classification to agricultural, the assessor must make that change on the assessment roll. The assessor must then consider if, and to what extent, the parcel's new agricultural classification affects the parcel's eligibility for the qualified agricultural property exemption. The change may have no effect at all if the parcel was already receiving this exemption or the homeowner's principal residence exemption.

In addition, the parcel may not be entitled to a full (100 percent) qualified agricultural property exemption due to a commercial or industrial use on the parcel or a residence on the parcel that is not a related building, etc. If the classification change affects the parcel's eligibility for the qualified agricultural property exemption, the assessor must change the assessment roll accordingly.

- **What happens if the State Tax Commission (STC) changes a parcel's classification to agricultural real property?**

This situation is handled similarly to the preceding situation. If the STC changes a parcel's classification to agricultural, the assessor must make that change on the assessment roll for the year covered by the determination. The assessor must also consider if, and to what extent, the parcel's new agricultural classification affects the parcel's eligibility for the qualified agricultural property exemption for the year covered by the Commission's determination. The change may have no effect at all if the parcel was already receiving this exemption or the homeowner's principal residence exemption.

In addition, the parcel may not be entitled to a full (100 percent) qualified agricultural property exemption due to a commercial or industrial use on the parcel or a residence on the parcel that is not a related building, etc. If the classification change affects the parcel's eligibility for the qualified agricultural property exemption, the assessor must change the assessment roll accordingly. The Treasurer must then issue a refund of any overpayment of taxes for the year covered by the determination.

- **If the March Board of Review or the STC changes a parcel's classification to agricultural on the assessment roll, is that change permanent? Can the assessor change the classification to something other than agricultural in a subsequent year?**

A change of a parcel's classification is not permanent. An assessor is required by

law to determine each parcel's classification every year.

- **When a classification appeal is pending with the STC, will the STC determination automatically cover all subsequent years as well as the year specifically under appeal?**

No. Unless the classification for each year is appealed first to the March board of review and then to the STC by June 30 of the year of the classification, the STC does not have jurisdiction to change the classification.

- **If an assessor determination or an appeal of a parcel's classification results in a change of classification from agricultural to residential or commercial, etc., could the classification change cause the parcel to lose the qualified agricultural property exemption?**

Yes. Since agricultural classification makes a parcel eligible for the qualified agricultural property exemption, the change to something other than agricultural could eliminate the parcel's eligibility to receive the qualified agricultural property exemption for the year of the classification change.

Example: A 40 acre parcel has, 15 acres are planted in corn or soybeans with 25 acres a combination of swamp and woods, are not tillable, and are not devoted to an agricultural use and often used for hunting purposes. The assessor changed the classification from agricultural to residential. The property owner appealed the classification to the March board of review and then on to the State Tax Commission. The Commission determined the proper classification was residential. As a result of this classification change, the parcel is not entitled to the qualified agricultural property exemption; it is not classified agricultural and is not devoted primarily to an agricultural use, only 15 of the 40 acres, or 37.5 percent, are devoted to an agricultural use.

Ownership

- **Can property owned by a legal entity such as a limited liability company, corporation, etc. receive the qualified agricultural property exemption?**

Yes, if the property otherwise qualifies for this exemption. Unlike the homeowner's principal residence exemption, ownership by a partnership, corporation, limited liability company, association, or other legal entity does not affect the qualified agricultural property exemption.

- **Can property owned or being purchased under a land contract receive the qualified agricultural property exemption?**

Yes, provided the property otherwise qualifies for this exemption.

- **Can property owned by someone who has retained a life lease on that property receive the qualified agricultural property exemption?**

Yes, provided the property otherwise qualifies for this exemption.

- **Can property owned by someone as a result of being a beneficiary of a will or a trust or as a result of intestate succession receive the qualified agricultural property exemption?**

Yes, provided the property otherwise qualifies for this exemption.

Withdrawals and Rescissions

- **Can a property owner withdraw a qualified agricultural property exemption that has been incorrectly granted?**

Yes, an owner may request in writing to withdraw the exemption under the provisions of MCL 211.7ee(8). The exemption is to be removed immediately from the tax roll(s) as if the exemption had not been granted. The local unit and the County treasurer are responsible for changing the tax roll(s) in their possession. A corrected tax bill for each affected tax year must be issued by the local unit and/or the County treasurer for the additional taxes caused by the removal of the qualified agricultural property exemption. Interest and penalties will not be added if the bill is paid within 30 days.

- **What is the difference between a withdrawal of a qualified agricultural property exemption and a rescission?**

A withdrawal of a qualified agricultural property exemption removes the exemption for the year(s) involved, as if the exemption had never been granted and results in additional taxes being billed for the current and/or prior years. A rescission removes all or a portion of the qualified agricultural property exemption for the next tax year and no additional taxes are billed.

- **Is a property owner required to file to rescind the qualified agricultural property exemption when all or a part of the property is no longer qualified agricultural property?**

Yes. Not more than 90 days after all or a portion of property is no longer qualified agricultural property, the owner must file a rescission form with the local assessor; Request to Rescind Qualified Agricultural Property Exemption Form 2743.

Note: The Request to Rescind Qualified Agricultural Property Exemption Form 2743 is filed by the property owner and is different from Form 3677 the Notice of Intent to Rescind the Qualified Agricultural Property Exemption. Form 3677 is filed by the prospective purchaser of the property within 120 days prior to the sale.

- **Is there a penalty when a property owner fails to file form 2743?**

Yes. An owner who fails to file a rescission form is subject to a penalty of \$5 per day (beginning after the 90 days to file have elapsed) up to a maximum of \$200. This penalty is to be collected under MCL 205.1 to 205.31 and is to be deposited in the State school aid fund. This penalty may be waived by the Michigan Department of Treasury.

Note: It is not the responsibility of local unit or County treasurers to collect this penalty. In fact, local unit treasurers and County treasurers are not legally authorized to collect this penalty.

- **Should assessors remove the qualified agricultural property exemption from a parcel after that parcel transfers ownership?**

No. Once a parcel is granted the qualified agricultural property exemption, the exemption remains in place until the end of the year in which the property is no longer qualified agricultural property (except in withdrawal and denial situations). Ownership is **not** relevant in determining whether a parcel continues to receive the qualified agricultural property exemption.

Denials and Appeals

- **Can an assessor deny a qualified agricultural property exemption for a prior year on their own initiative?**

No. With the exception of withdrawal situations where the property owner has requested the withdrawal of the qualified agricultural property exemption for a prior year, the assessor cannot deny a qualified agricultural property exemption for a prior year.

- **Can an assessor deny the qualified agricultural property exemption for the current year?**

Yes, in three situations:

1. The assessor can deny a claim for a **new** qualified agricultural property exemption. When a property owner files Form 2599 and initially claims a new qualified agricultural property exemption, the assessor must determine whether the parcel is entitled to the qualified agricultural property exemption. If it is not eligible, the assessor can deny (or partially deny) the exemption.

2. The assessor can deny (or partially deny) an **existing** qualified agricultural property exemption when preparing the annual assessment roll, if they believe that a parcel that received the exemption last year is no longer qualified agricultural property.

3. In the opinion of the State Tax Commission, an assessor can deny (or partially deny) an **existing** qualified agricultural property exemption after the close of the March Board of Review, since the status day for this exemption is May 1. For example: last year an unimproved 30 acre parcel planted in soybeans and classified residential, received a qualified agricultural property exemption. At the time the assessment roll was prepared this year, no physical change had occurred on the parcel. Shortly after the close of the March Board of Review, the property owner divides the entire parcel for residential development, site work begins, utilities are extended to the various planned lots, and survey work has begun to put in a private road. It is clear that this parcel is no longer qualified agricultural property and will not be qualified agricultural property on May 1, status day for this exemption. The assessor in this situation should deny the qualified agricultural property exemption for this parcel for the current year.

- **If after May 1 an assessor discovers that a parcel which was exempt in a prior year is incorrectly receiving this exemption for the current year, can the assessor deny the qualified agricultural property exemption for the current year?**

No. If an assessor discovers after May 1, a situation where it is clear that a parcel is incorrectly receiving the qualified agricultural property exemption, they have no authority to deny the exemption for the current year; they may only deny the exemption for the next year.

- **When the assessor denies the qualified agricultural property exemption what notification is made to the property owner and what are their appeal rights?**

The way in which the assessor denies a qualified agricultural property exemption for the current year, and the appeal rights depends on the circumstances. *Owners are always notified in writing of the denial.*

1. To deny a **new** claim for a qualified agricultural property exemption the State Tax

Commission recommends the assessor deny the exemption by July 1 of the current year and that the owner be notified immediately in writing of the denial, the reason for the denial, and the owner's rights of appeal to the July or December board of review. This denial and notification procedure also applies to a partial denial. Appeal of the July or December Board determination is to the Michigan Tax Tribunal within 35 days of the Board of Review action.

2. To deny an **existing** qualified agricultural property exemption when preparing the annual assessment roll, the assessor eliminates the exemption from the assessment roll and notifies the property owner by mailing an assessment change notice at least 10 days before the March Board of Review. This procedure also applies to partial denial or removal. The appeal is to the March Board of Review and then to the Tax Tribunal by July 31.

3. To deny an **existing** qualified agricultural property exemption after the close of the March board of review, an assessor denies the exemption and notifies the owner immediately in writing of the denial, the reason for the denial, and the owner's rights of appeal to the July or December Board of Review. This procedure also applies to a partial denial or removal. Appeal of the July or December Board determination is to the Michigan Tax Tribunal within 35 days of the Board of Review action

- **If a parcel did not receive a qualified agricultural property exemption last year, can the March Board of Review grant an appeal by the property owner requesting that the qualified agricultural property exemption be added for the current year?**

No. If the parcel did not receive the qualified agricultural property exemption in the prior year, the March Board of Review does **not** have the legal authority to grant the exemption for the current year, even if the parcel qualifies for the exemption. Instead, the property owner must file Claim for Farmland Exemption from some School Operating Taxes Form 2599, by May 1 to claim the exemption.

- **Can an owner of property that was qualified agricultural property on May 1 for which an exemption was not on the tax roll, somehow later obtain that exemption?**

Yes. An owner of property that was qualified agricultural property on May 1 for which an exemption was not on the tax roll may appeal to the July or December Board of Review. July and December boards of review have the power to grant the exemption for the current year (the year in which the appeal is made) and the immediately preceding year—provided the parcel in question otherwise qualified for the exemption for the year(s) involved.

APPENDIX



STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

ROBERT J. KLEINE
STATE TREASURER

**BULLETIN 7 OF 2006
TRANSFERS OF QUALIFIED
AGRICULTURAL PROPERTY
AUGUST 29, 2006**

TO: Assessors, Equalization Directors and Treasurers

FROM: State Tax Commission

**RE: PUBLIC ACTS 260 AND 261 OF 2000 REGARDING TRANSFERS OF
QUALIFIED AGRICULTURAL PROPERTY.**

Preliminary draft of STC Bulletin No. 10 of 2000 is hereby rescinded.

PA 260 of 2000 first affected the analysis of transfers, which occurred starting January 1, 2000. Therefore qualifying transfers were first exempt from uncapping under this law beginning with the 2001 assessment roll. PA 261 of 2000 – the agricultural property recapture act had an effective date of June 29, 2000.

Copies of PA 260 and PA261 of 2000 are available on the Internet at www.legislature.mi.gov. When you reach the site, click on "Public Acts" and enter the act number and the year in the appropriate locations.

□ 2005 SUPPLEMENT TO BULLETIN NO. 16 OF 1995

NOTE: These materials are to be considered a "2005 SUPPLEMENT TO BULLETIN NO. 16 OF 1995" with the thought that they will be copied and added to STC Bulletin No. 16 of 1995 to keep information regarding transfers of ownership together.

1. Certain Transfers of Qualified Agricultural Property Are Not "Transfers of Ownership" Starting With the 2001 Assessment Roll.

PA 260 of 2000 provided that a transfer of qualified agricultural property is not a "transfer of ownership" provided that:

- a) The property remains qualified agricultural property after the transfer. And
- b) **The person to whom the property is transferred files an affidavit with the assessor and the register of deeds. (The STC recommends that the assessor verify that an affidavit has also been filed with the register of deeds.)**

The signer of the affidavit must attest that the qualified agricultural property shall remain qualified agricultural property. The affidavit, Form 3676, can be obtained at the Department of Treasury Web site, www.michigan.gov/treasury.

When a property is transferred and the transfer is not a “transfer of ownership”, the taxable value of the property is not uncapped in the year following the transfer.

Important Note: If qualified agricultural property is transferred and does not remain qualified agricultural property, the taxable value may still be exempt from uncapping if the transfer qualifies under some other section of law, such as a qualifying transfer to a trust, etc.

2. Procedure to Follow When Qualified Agricultural Property Which Has Been Exempt from Uncapping Under the Provisions of PA 260 of 2000 Later Ceases to be Qualified Agricultural Property.

MCL 211.27a. (7)(n) provides that if qualified agricultural property, which was exempt from being uncapped due to the provisions of PA 260 of 2000, ceases to be qualified agricultural property at any time after being transferred, the following shall occur:

- The taxable value shall be uncapped in the year after the property ceases to be qualified agricultural property. This means that the SEV, for the year after the property ceases to be qualified agricultural property, will become the taxable value of the property for that year
- The property is subject to the Agricultural Property Recapture Act. Separate instructions regarding the recapture tax are provided in this bulletin as a service to assessors.

Important Note: The language “ceases to be qualified agricultural property” has been interpreted to include situations where the portion of a parcel that is qualified agricultural property decreases (i.e., the qualified agricultural property exemption percentage decreases). Please see question 3 contained in the addendum to this bulletin.

3. Procedure to Follow When a Purchaser of Qualified Agricultural Property Does Not Timely File An Affidavit to Claim the Exemption from Uncapping, Then Later Discovers This Exemption from Uncapping, and Files Form 3676 After the Taxable Value Has Been Uncapped by the Assessor.

PA 260 of 2000 provided for the recapping of taxable value when all of the following five conditions exist.

- a) A purchaser of qualified agricultural property qualifies for the exemption from uncapping except that the purchaser does not timely file the affidavit required. And
- b) The assessor uncaps the taxable value in the year following the transfer. And
- c) The purchaser later discovers (or chooses to claim) this exemption from uncapping. And
- d) The purchaser then files the affidavit (Form 3676). And
- e) The property was qualified agricultural property for each year back to and including 1999.

When all five of these conditions exist, the local tax collecting unit shall immediately revise the current tax roll by changing the existing uncapped taxable value to the taxable value the property would have if it had not been uncapped after the transfer. (This applies only to uncapping which occurred in 2001 or later.) This will require going back to the year when the taxable value was uncapped and recalculating the capped value from that point forward to the current year. However, only the current year's tax roll is actually changed. (A notation is also made in the *change column* of the current assessment roll.)

When an assessor recaps taxable value, the STC requires that the assessor file Form 3675. This is a mandatory form, which provides a paper trail for an action not occurring at a meeting of the board of review. Form 3675 can only be used for the recapping authorized by PA 260 of 2000 and cannot be used for other purposes.

When a taxable value is recapped, the owner of the recapped property is not entitled to a refund of taxes already paid. However, if a tax bill has not been paid and the due date for the bill occurs after the recapping, the recapped taxable value shall be used for that bill. The due date is the last date on which taxes can be legally paid without the addition of interest or penalty.

Important Note: The recapping of taxable value as authorized by PA 260 of 2000 for qualified agricultural property must not be confused with adjustment of taxable value by the July or December board of review under PA 23 of 2005 to correct an incorrect uncapping of taxable value. Adjustment of taxable value by the July or December board of review is now authorized only when the assessor has determined that no transfer of ownership occurred after a property has been incorrectly uncapped. It is not an incorrect uncapping that occurs when qualified agricultural property transfers ownership and the new owner does not file the affidavit to keep the cap in place and the assessor therefore uncaps the property's taxable value.

□ THE RECAPTURE TAX

1. When is the recapture tax imposed?

The recapture tax is imposed when all of the following conditions are met:

- a) Property was transferred after December 31, 1999.
- b) The taxable value of the property was not uncapped in the year following the transfer because it qualified for the exemption from uncapping provided by PA 260 of 2000.
- c) The qualified agricultural property is converted by a change in use after December 31, 2000. There is a change in use when one of the following occurs:

There is a change in use and the assessor determines that the property is no longer qualified agricultural property. Or

A purchase is about to occur but, prior to the purchase, the future purchaser files a Notice of Intent to Rescind the Qualified Agricultural Property Exemption (Form 3677) with the local tax-collecting unit.

Please note: Form 3677 - The Notice of Intent to Rescind the Qualified Agricultural Property Exemption is different from Form 2743 - The Request to Rescind the Qualified Agricultural Property Exemption. Form 3677 is filed before a change in use occurs. Form 2743 is filed after a change in use actually occurs.

Property is converted by a change in use on the date that the notice (Form 3677) is filed with the local tax-collecting unit. If the sale is not consummated within 120 days of the filing with the local unit, then the property is not converted by a change in use.

2. How is the recapture tax calculated?

The recapture tax is calculated on the benefit period, which consists of up to seven years of tax savings enjoyed by the person to whom qualified agricultural property was transferred with a capped taxable value under PA 260 of 2000. When a conversion by a change in use occurs, the tax benefit that occurred during the period of up to seven years is recaptured. The year that the property is converted by a change in use is not included in this calculation.

For example:

Qualified agricultural property transferred on October 1, 2000. The property remained qualified agricultural property after the transfer and an affidavit (Form 3676) was filed by the new owner. Therefore, the property was not a transfer of ownership due to the provisions of P.A. 260 of 2000 and the taxable value was not uncapped in 2001. The property then is converted by a change in use on September 1, 2010.

In this example there is a 7-year recapture tax period consisting of the tax savings for the years 2003 through 2009. The tax savings for the years 2001 and 2002 are not included because these years are before the most recent 7 years. The tax savings for the year 2010 are not included because the tax savings for the year that a property is converted by a change in use are not recaptured.

The following procedures are recommended for use in calculating the recapture tax:

- a. Determine the number of mills levied on the property during each year of the benefit period.
- b. Determine the taxable value the property would have had during the benefit period if it had been uncapped in the year following the transfer. This is called the true cash taxable value.
- c. Determine the actual taxable value for the benefit period.
- d. Subtract the actual taxable value for each year of the benefit period from the true cash taxable value for each year of the benefit period.
- e. Multiply the millage for each year determined in step a) by the taxable value difference for each year determined in step d) and add the results.

3. Who calculates the recapture tax?

The County treasurer calculates and collects the recapture tax. However, the assessor of the local tax-collecting unit must notify the County Treasurer of the date on which the property is converted by a change in use and must calculate the true cash taxable as described in item 2(b) above.

The STC recommends that assessors keep a record of properties which have been exempt from uncapping due to PA 260 of 2000 and annually calculate the true cash taxable values of these properties. If, for example, a conversion by a change in use were to occur 25 years in the future, it might be very difficult to go back and calculate true cash taxable values 25 years after the exemption from uncapping was initially granted.

Important Note: The recapture tax must include the tax savings for the entire benefit period of up to 7 years. The County treasurer does not have the authority to reduce the recapture tax.

4. Who pays the *recapture tax*?

The recapture tax is sometimes paid by the person who owns the property at the time that the property is converted by a change in use. However, under certain circumstances, the recapture tax is paid by the person who transfers a property even though the actual change in use occurs after the transfer. This is the case when, prior to the transfer, the future purchaser files a Notice of Intent to Rescind the Qualified Agricultural Property Exemption (Form 3677) with the local tax collecting unit and delivers a copy of the notice to the future seller. Please see section 2. (c)(ii) And 3. (3) of PA 261 of 2000.

Important Note: If a property is transferred after receiving an exemption from uncapping (as provided by PA 260 of 2000) and if the status of the property later changes so that the property is no longer qualified agricultural property to the same extent it was before the transfer, the entire recapture tax is paid by the owner who owned the property when the qualified agricultural property exemption percentage was reduced. It is not split between the

current owner and the previous owner. For example, person A sells a farm property (which is 100 percent qualified agricultural property) to person B. Person B qualifies for the exemption from uncapping provided by PA 260 of 2000. After five years, person B sells the property to person C who also qualifies for the exemption from uncapping provided by PA 260 of 2000. After another three years, person C develops the property into a commercial use and the property is no longer qualified agricultural property to the same extent it was before the transfer. In this example, seven years of recapture tax are due and the recapture tax is paid entirely by person C. Person B pays none of the recapture tax.

5. When is the recapture tax collected?

Section 3. (2) applies when there is a change in use as defined in Section 2(c)(i), and requires that the tax be paid within 90 days of the date the property was converted by a change in use. If it is not paid within 90 days, the treasurer may bring a civil action against the owner of the property.

Section 3. (3) applies when a future purchaser files a Notice of Intent to Rescind the Qualified Agricultural Property Exemption (Form 3677). In this case, the tax is an obligation of the person who owned the property prior to the transfer and the tax is due when the instruments transferring the property are recorded with the register of deeds.

6. Who gets the recapture tax revenue?

Please see sections 5 and 6 of PA 261 of 2000 for specific wording. The recapture tax is collected by the county treasurer and deposited with the state treasurer where it is credited to the fund in which the proceeds from lien payments made under part 361 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.36101 to 324.36117, are deposited.

The interest earned on the money collected while held by the county may be retained by the county treasurer as reimbursement for the costs incurred by the county in collecting and transmitting the tax. The money retained by the county shall be deposited in and credited to the general fund of the county in which the tax is collected.

ADDENDUM

Question 1: What happens if the property being transferred has a qualified agricultural property exemption of less than 100 percent, example a 75 percent exemption, and the transfer qualifies to be exempt from being uncapped due to the provisions of PA 260 of 2000?

In this situation, there is a partial uncapping of 25 percent of the taxable value and 75 percent remains capped.

Question 2: What happens if a property has a 100 percent exemption as qualified agricultural

property and only 75 percent will remain qualified agricultural property after the transfer due to a partial change in use? (Note: This example does not involve a split.)

There will be a total uncapping of the taxable value of this parcel (assuming that the transfer does not qualify to be exempt from uncapping under some other provision of the law). It is the opinion of the STC that a reduction in the percentage of the qualified agricultural property exemption of a parcel results in a total uncapping of that parcel's taxable value in the situation described above. PA 260 of 2000 did not provide for a partial uncapping in this situation.

Question 3: In terms of uncapping, what happens if only part of a qualified agricultural property is converted by a change in use after a transfer, which was exempt from uncapping by PA 260 of 2000?

If part of the property is split off, and then the split parcel is converted by a change in use, the taxable value of the split parcel is uncapped in the following year and the recapture procedure is applied. The taxable value of what remains of the original parcel remains capped (assuming that the original portion remains qualified agricultural property to the same extent it was before the split). However, if part of the property is converted by a change in use prior to or not involving a split, the taxable value of the entire parcel is uncapped in the year following the change in use and the recapture procedure is applied.

Question 4: An 80-acre property is classified agricultural but the owner lives on the property and claims the homeowner's principal residence exemption so that he/she can also claim a homeowner's principal residence exemption on contiguous vacant property, which is classified residential. If this 80-acre parcel is being transferred to someone who will continue to farm the property, can the buyer file an affidavit (Form 3676) and claim the exemption from uncapping that is provided for qualified agricultural property even though the property is receiving the homeowner's principal residence exemption (and not the qualified agricultural property exemption)?

Yes. Properties, which are classified agricultural, meet the definition of "qualified agricultural property" even though the property has a homeowner's principal residence exemption. PA 260 of 2000 simply required the property be qualified agricultural and remain qualified agricultural after a transfer in order to avoid uncapping. The act did not require that the property be receiving the qualified agricultural property exemption.

Furthermore, if the 80-acre parcel was classified residential but was qualified agricultural property because more than half its acreage was devoted to agricultural use, a transfer of the parcel could qualify for the exemption from uncapping even though it is classified residential. (Please see page 4 of STC Bulletin No. 4 of 1997 regarding the 50 percent test for qualified agricultural property.)

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

324.36101 Definitions.

Sec. 36101.

As used in this part:

(b) "Agricultural use" means the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; maple syrup production; Christmas trees; and other similar uses and activities. Agricultural use includes use in a federal acreage set-aside program or a federal conservation reserve program. Agricultural use does not include the management and harvesting of a woodlot.

Affidavit Attesting that Qualified Agricultural Property or Qualified Forest Shall Remain Qualified Agricultural Property

INSTRUCTIONS: This form must be filed to claim that a transfer of property is not a statutory transfer of ownership because the property will continue to be qualified agricultural or qualified forest property. This form must be filed with the register of deeds for the county in which the qualified agricultural property is located and then with the assessor of the local tax collecting unit where this property is located.

1. Street Address of Property		2. County	
3. City/Township/Village Where Real Estate is Located		<input type="checkbox"/> City	<input type="checkbox"/> Township <input type="checkbox"/> Village
4. Name of Property Owner(s) (Print or Type)		5. Property ID Number (from Tax Bill or Assessment Notice)	
6. Legal Description (Legal description is required; attach additional sheets if necessary)		7. Percentage of This Property Which is Currently and Will Remain Qualified Agricultural Property (#7 does not apply to the Qualified Forest Program)	
8. Daytime Telephone Number		9. E-mail Address	

CERTIFICATION & NOTARIZATION (Notarization necessary for recording with Register of Deeds)

I certify that the information above is true and complete to the best of my knowledge. I further certify that the property noted on this affidavit currently is and will remain qualified agricultural or qualified forest property.

Signed _____

Name (Print or Type) _____

Title _____

Must be signed by owner, partner, corporate officer, or a duly authorized agent.

State of _____

County of _____

Acknowledged before me this _____

day of _____, _____

By _____

Notary Signature _____

Name of Notary (Print or Type) _____

Notary Public, State of Michigan,
County of _____
My commission expires: _____
Acting in the County of _____

Drafter's Name _____

Drafter's Address _____

LOCAL GOVERNMENT USE ONLY

Is the percentage stated above in number 7 the current percentage of the property that is qualified agricultural property? Yes No N/A (Qualified Forest Only)

If not, what is the correct percentage of the property that is currently qualified agricultural property? _____

Assessor's Signature	Date
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INSTRUCTIONS

This form must be filed by the person to whom qualified agricultural or qualified forestproperty is transferred to claim that the transfer is not a statutory transfer of ownership because the property will continue to be used as qualified agricultural property. This form must be filed with the register of deeds for the county in which the qualified agricultural property is located. This form must also then be filed with the local assessor in the township or city where the qualified agricultural property is located.

EXCERPTS FROM MICHIGAN COMPILED LAWS (MCL)

Section 211.7dd. (d)

" 'Qualified agricultural property' means unoccupied property and related buildings classified as agricultural, or other unoccupied property and related buildings located on that property devoted primarily to agricultural use...Related buildings include a residence occupied by a person employed in or actively involved in the agricultural use and who has not claimed a principle residence exemption on other property. Property used for commercial storage, commercial processing, commercial distribution, commercial marketing, or commercial shipping operations or other commercial or industrial purposes is not qualified agricultural property. A parcel of property is devoted primarily to agricultural use only if more than 50% of the parcel's acreage is devoted to agricultural use. An owner shall not receive an exemption for that portion of the total state equalized valuation of the property that is used for a commercial or industrial purpose or that is a residence that is not a related building."

Section 211.27a. (3)

"Upon a transfer of ownership of property after 1994, the property's taxable value for the calendar year following the year of the transfer is the property's state equalized valuation for the calendar year following the transfer."

Section 211.27a. (6)

"...[T]ransfer of ownership' means the conveyance of title to or a present interest in property, including the beneficial use of the property, the value of which is substantially equal to the value of the fee interest."

Section 211.27a. (7)(n)

"Transfer of ownership" does not include the following: "A transfer of qualified agricultural property, if the person to whom the qualified agricultural property is transferred files an affidavit with the assessor of the local tax collecting unit in which the qualified agricultural property is located and with the register of deeds for the county in which the qualified agricultural property is located attesting that the qualified agricultural property shall remain qualified agricultural property... An owner of qualified agricultural property shall inform a prospective buyer of that qualified agricultural property that the qualified agricultural property is subject to the recapture tax provided in the agricultural property recapture act...if the qualified agricultural property is converted by a change in use. If property ceases to be qualified agricultural property at any time after being transferred, all of the following shall occur:

(i) The taxable value of that property shall be adjusted under subsection (3) as of the December 31 in the year that the property ceases to be qualified agricultural property.

(ii) The property is subject to the recapture tax provided for under the agricultural property recapture act."

Qualified Agricultural Property

Only the owner can claim an exemption. An owner generally is the person who holds the legal title to the property. An owner includes the buyer on a land contract, the holder of a life lease and the grantor of property placed in a revocable trust or qualified personal residence trust (QPRT). An owner may be an individual, or a legal business entity of any type.

For property classified agricultural, qualified agricultural property is:

1. vacant land;
2. all farm-related structures;
Farm-related buildings do not include those used for commercial storage, commercial processing, commercial distribution, commercial marketing, commercial shipping, or any other commercial or industrial use.
3. any residences on the property if they are occupied by a person who is employed in or who is actively involved in the farming operation and who has not filed a Homestead Exemption Affidavit for another residence.

Property that is not classified as agricultural still qualifies for this exemption if more than 50 percent of the acreage is devoted to an agricultural use. "Agricultural use" means the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. Agricultural use includes use in a federal acreage set-aside program or a federal conservation reserve program. Agriculture use does not include the management and harvesting of a woodlot.

Property not classified agricultural that is used for agricultural purposes is subject to the same limitations as property classified agricultural (see 1 - 3 above).

EXCERPTS FROM THE AGRICULTURAL PROPERTY RECAPTURE ACT

Section 2. (c)

"'Converted by a change in use' means 1 or more of the following: (i) That due to a change in use the property is no longer qualified agricultural property as determined by the assessor of the local tax collecting unit. (ii) If, prior to a transfer of qualified agricultural property, the purchaser files a notice of intent to rescind the qualified agricultural property exemption under section 7ee of the general property tax act, 1893 PA 206, MCL 211.7ee, with the local tax collecting unit and delivers a copy of that notice to the seller of the qualified agricultural property, the property has been converted by a change in use...**If the sale is not consummated within 120 days of the filing of the notice under this subdivision or within 120 days of a subsequent filing of the notice under this subdivision, then the property is not converted by a change in use under this subdivision.**" (emphasis added)

Section 3. (2)

"If a recapture tax is imposed because qualified agricultural property is converted by a change in use described under section 2(c)(i), the recapture tax is the obligation of the person who owned the property at the time the property was converted by a change in use..."

Section 3. (3)

"If a recapture tax is imposed because qualified agricultural property is converted by a change in use as described in section 2(c)(ii), the recapture tax is an obligation of the person who owned the property prior to the transfer and the recapture tax is due when the instruments transferring the property are recorded with the register of deeds. The register of deeds shall not record an instrument transferring the property before the recapture tax is paid."

EXCERPTS FROM THE GENERAL PROPERTY TAX ACT

Section 7dd. (e)

"'Qualified agricultural property' means unoccupied property and related buildings classified as agricultural, or other unoccupied property and related buildings located on that property devoted primarily to agricultural use...Related buildings include a residence occupied by a person employed in or actively involved in the agricultural use and who has not claimed a homestead exemption on other property. Property used for commercial storage, commercial processing, commercial distribution, commercial marketing, or commercial shipping operations or other commercial or industrial purposes is not qualified agricultural property. A parcel of property is devoted primarily to agricultural use only if more than 50% of the parcel's acreage is devoted to agricultural use. An owner shall not receive an exemption for that portion of the total state equalized valuation of the property that is used for a commercial or industrial purpose or that is a residence that is not a related building."

Section 27a. (3)

"Upon a transfer of ownership of property after 1994, the property's taxable value for the calendar year following the year of the transfer is the property's state equalized valuation for the calendar year following the transfer."

Section 27a. (6)

"...[T]ransfer of ownership' means the conveyance of title to or a present interest in property, including the beneficial use of the property, the value of which is substantially equal to the value of the fee interest."

Section 27a. (7)(n)

"Transfer of ownership" does not include the following: "A transfer of qualified agricultural property, if the person to whom the qualified agricultural property is transferred files an affidavit with the assessor of the local tax collecting unit in which the qualified agricultural property is located and with the register of deeds for the county in which the qualified agricultural property is located attesting that the qualified agricultural property shall remain qualified agricultural property... An owner of qualified agricultural property shall inform a prospective buyer of that qualified agricultural property that the qualified agricultural property is subject to the recapture tax provided in the agricultural property recapture act, if the qualified agricultural property is converted by a change in use. If property ceases to be qualified agricultural property at any time after being transferred, all of the following shall occur:

(i) The taxable value of that property shall be adjusted under subsection (3) as of the December 31 in the year that the property ceases to be qualified agricultural property.

(ii) The property is subject to the recapture tax provided for under the agricultural property recapture act."

INSTRUCTIONS

Overview

In addition to the homestead exemption from local school operating taxes, the legislature has passed a separate exemption for farmland. Some people may have to file this form in addition to their homestead exemption affidavit. Read the instructions carefully to determine if you need to file this form.

Do You Need To File?

If your property is already exempt as a homestead, you do not need to file this form.

If you own vacant land classified as agricultural, it is automatically exempt and you do not need to file a form to claim your exemption. If you have a residence or other buildings on the property, your assessor may ask you to complete this form to determine if all the property qualifies.

If your property is not classified agricultural, but more than 50 percent of the acreage is devoted to an agricultural use, you must file this form by May 1, to claim your exemption.

Qualifications

Only the owner can claim an exemption. **An owner** generally is the person who holds the legal title to the property. An owner includes the buyer on a land contract, the holder of a life lease and the grantor of property placed in a revocable trust or qualified personal residence trust (QPRT). An owner may be an individual, or a legal business entity of any type.

For property classified agricultural, qualified agricultural property is:

1. vacant land;
2. all farm-related structures;
Farm-related buildings do not include those used for commercial storage, commercial processing, commercial distribution, commercial marketing, commercial shipping, or any other commercial or industrial use.
3. any residences on the property if they are occupied by a person who is employed in or who is actively involved in the farming operation and who has not filed a *Homestead Exemption Affidavit* for another residence.

Property that is not classified as agricultural still qualifies for this exemption if more than 50 percent of the acreage is devoted to an agricultural use. "Agricultural use" means the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; maple syrup production; Christmas trees; and other similar uses and activities. Agricultural use includes use in a federal acreage set-aside program or a federal conservation reserve program. Agriculture use does not include the management and harvesting of a woodlot.

Property not classified agricultural that is used for agricultural purposes is subject to the same limitations as property classified agricultural (see 1 -3).

Section 1. Identification

File a separate claim for each qualified parcel.

Complete all items for the property that you wish to claim. If the farmland is located in a village, list the township where the farmland is located.

Every township and city identifies parcels of property with a **property identification number** (PIN) that ranges from 10 to 25 numbers. It usually includes hyphens and sometimes includes letters. This number is on your tax bill and on your property tax assessment notice. Find this number and enter it in the spaces indicated. If you cannot find this number, call your township or city assessor.

**Your property number is vital!
Without it your township or city cannot adjust
your property taxes accurately.**

Section 2. Farmland

Answer each question in section 2 as it relates to the parcel identified by the PIN in section 1.

Item 2a: If you answer "no," your property does not qualify and you do not need to file this form.

Items 2b - 2d: If you answer "yes" to any of these questions, you must enter a percentage in section 3.

Section 3. Multi-purpose Property

You may claim an exemption only for the portion of taxes related to the property used for agricultural purposes.

Compute your percentage as follows.

$$\frac{\text{Value of qualified agricultural property}}{\text{Value of total property}} \times 100$$

Your local assessor can help you determine the percentage that qualifies.

Appeals

Your local assessor has the authority to approve or deny claims for farmland exemptions. If you disagree with your assessor, you may appeal the decision to the local board of review. A board of review decision may be appealed to the Michigan Tax Tribunal.

Interest and Penalty

If it is determined that you made a claim for property that is not qualified agricultural lands, you will be subject to the additional tax plus interest, and possibly penalty, as provided by law.

Mailing Your Form

Mail each completed form to the township or city where the property is located.