



Can I benefit from the Ag Exemption?

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Foster Swift Agricultural Law Update
May 2013

The term "Ag Exemption" is frequently used, yet because there are actually three separate and distinct types of tax-related "Ag Exemptions," they are often combined or confused in discussion.

1) PROPERTY TAX EXEMPTION.

This is the most common exemption, and may be applied automatically for some property that is zoned agricultural. This exemption reduces an owner's property taxes, like the principal residence exemption (also known as the "PRE Exemption" or the "Homestead Exemption"). An owner with a residence on an ag land parcel might have either a Homestead Exemption or an Ag Exemption, but cannot join and double the exemption.

2) EXEMPTION FROM UNCAPPING FOLLOWING TRANSFER.

By filing an Affidavit with the Assessor's office stating that the acquired property will remain qualified agricultural property, a purchaser of qualified agricultural property can claim an exemption so that a transfer of property is not deemed a statutory "transfer of ownership" which would otherwise reset or "uncap" the property's taxable value. This exemption is commonly known as an "Act 260 Exemption" or a "P.A. (Public Act) 260 Exemption."

a) Retroactive Exemption for Missed Filings.

In a rare reprieve, owners of qualified agricultural property who were not aware of this exemption or simply failed to file it can file the exemption years later, and request that the Assessor recap the property retroactive to the date of acquisition. This will typically lower the property's tax base in the current year and future years moving forward, but the taxpayer is not entitled to a refund of taxes already paid prior to the correction.

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3) FARMLAND AND OPEN SPACE PRESERVATION PROGRAM.

This program is commonly known as the "P.A. 116 Program" for P.A. 116 of 1974, which has since been replaced by P.A. 451 of 1994. Under this program, a farmer seeks credits against the farmer's state income tax liability. In exchange for entry into the program and potential state income tax credits, the farmer enters a contract with the State of Michigan for a minimum of ten years, which restricts the use and development of the subject land in favor of continued farming and preservation of open space.

We hope this summary and overview is helpful in distinguishing the various exemptions, and determining which might apply to your land. We will provide more detail regarding qualification nuances and procedures for each of these separate exemptions in future articles.

In the meantime, if you have any property or tax questions related to farmland, please feel free to contact one of our experienced agricultural attorneys.
