



## Important Agricultural Property Tax Exemptions and Incentives You Should be Taking Advantage of in 2020

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Michigan has more than 60 million acres of land, and one out of every six acres is farmland. That's 10 million acres of farmland property, according to Michigan's Department of Agriculture & Rural Development (MDARD).

Owning such a large amount of land means that farmers are responsible for paying a significant portion of the state's real property tax base. Because the food and agriculture industry is so critical to Michigan—contributing over \$100 billion annually to the state's economy—agricultural property is entitled to certain tax exemptions and incentives that lessen the property tax burden for those in the agriculture industry.

Many owners of agricultural property in Michigan do not take full advantage of the valuable tax exemptions and incentives available to them. In some cases, that is due to the complexity of the process involved in claiming the benefits. In other cases, land owners aren't aware of their existence.

In this article, we detail some of the most important tax issues that owners of agricultural property in Michigan should be aware of. To the extent that you have questions about these issues, such as whether your property qualifies or how to claim an exemption, please contact a Foster Swift property tax attorney for assistance.

### **Exemption from School Operating Taxes**

In Michigan, there are two ways to qualify property for the "Ag Exemption," which exempts agricultural property from school operating taxes up to 18 mills. One way is for a parcel, with or without buildings, to be classified as agricultural property on the local assessment roll by the first Monday of March of each year.

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Another option is to claim a parcel as agricultural property. Prior to May 1, a property owner may submit a request to claim property as farmland pursuant to Form 2599. Form 2599 utilizes the definition of “agricultural use” from the Farmland and Open Space Preservation Act, MCL 324.36101 et seq., which defines the term broadly.

Accordingly, under the General Property Tax Act (MCL 211.dd(d)), for property to be qualified as agricultural property, over 50% of the property must be devoted to agricultural use. This may include buildings related to agricultural uses, including houses occupied by persons employed in the agricultural use who have not claimed a personal residence exemption.

To the extent that an individual owns adjacent parcels of land, each with less than 50% agricultural use, the landowner can seek to consolidate the parcels in order to reach the 50% threshold and claim the exemption.

### **Transfers, Sales, and Rescissions**

When property is sold in Michigan, in most cases the sale gives rise to an uncapping event in which the property’s taxable value rises (or, less commonly, falls) to the State Equalized Value. In the case of agricultural property, if property qualifies as exempt from school operating taxes, then the sale of such qualified agricultural property is not deemed a transfer of ownership that gives rise to an uncapping of taxable value and reassessment of the property.

To qualify for uncapping of taxable value, the new owner must complete a qualified agricultural affidavit, record it with the register of deeds where the property is located, and then file it with the local assessor’s office.

If property subject to a qualified agricultural affidavit is sold, the seller must, according to the General Property Tax Act (MCL 211.1001), notify the buyer that there may be certain recapture taxes if the use changes. The General Property Tax Act also provides for a mechanism by which a property owner can rescind an agricultural election, such as in a situation where an owner decides to develop a portion of the parcel for non-agricultural use.

### **Recapping to a Prior Date**

There are instances where an owner fails to claim an exemption for agricultural property that would otherwise be entitled to an exemption. As a result, an uncapping event occurs and the property’s taxable value rises more than it would have had the exemption been claimed. In such cases, the General Property Tax Act provides a method by which a subsequent owner can seek to have the property recapped.

For example, if a party acquired property in 2010 that would have been qualified agricultural property but failed to file a qualified agricultural affidavit, someone who purchased the property in 2020 could, pursuant to MCL 211.227a(8), request that the property be recapped back to 2010 (plus additional adjustments consistent with changes in the Consumer Price Index). If the property is recapped, the taxes moving forward will be lower, but taxes that were paid during the uncapped period are not recoverable.



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### **Development Rights**

Under MCL 324.3601, certain farmland in Michigan may be enrolled in a development rights program by which the owner may receive state income tax credits for property taxes paid. To be eligible, the farm must be at least five acres in size and 51% or more of the property must be committed to an agricultural use. There are, however, income limitations and penalties for removing the property from the program or changing the use of the property in the program.

### **Conclusion**

Those operating in Michigan's agricultural industry work extremely hard and contribute greatly to the state's economy. They are also among the largest owners of real property, and, thus, pay one of the largest shares of real property taxes, in the state. To help ease their burden, Michigan has created tax exemptions and incentives related to the ownership of agricultural property. To learn more about these tax issues, and for assistance in taking advantage of them, please contact Jim Doezema at (616) 726-2205 or at [jdoezema@fosterswift.com](mailto:jdoezema@fosterswift.com).

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