

NEW FARMLAND PRESERVATION TAX CREDIT AVAILABLE FOR 2010 TAX RETURNS

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MADISON--The new farmland preservation tax credit available for farmers to claim on their 2010 income tax return is generating a number of questions from farmers and tax preparers.

"Farmers are eligible for Wisconsin income tax credits in exchange for keeping land in agricultural use and complying with state soil and water conservation requirements," explained Keith Foye, land management section chief, Wisconsin Department of Agriculture, Trade and Consumer Protection. "The farmland preservation tax credit has been around for many years. The Working Lands Initiative passed by the Legislature in 2009, simplifies the credit formula to a per-acre credit significantly increases on-average tax credits for farmers," Foye said.

The new tax credit ranges from \$5 to \$10 per acre. Last year, over 17,000 farmers claimed farmland preservation tax credits. These credits were paid on about 3.3 million acres of land under zoning or agreements.

Officials with the state agriculture department encourage farmers to participate in the program to accomplish the goals of preserving farmland and to implement the state's soil and water conservation standards for agriculture that protect water resources and soil productivity.

"At the same time, the refundable tax credit can add up to a real savings for Wisconsin farm families," Foye said.

Farmers may be eligible to claim the tax credit if they are located in a certified farmland preservation zoning district or if they have entered into an individual farmland preservation agreement with the state. The land owned by the farmer must also produce \$6,000 in gross farm revenue the year of the claim or \$18,000 over the previous three years.

DATCP has been receiving a large number of questions about the new farmland preservation tax credits. The answers to commonly asked questions include:

- Farmers participating in the program through farmland preservation zoning must use the new Schedule FC-A for their tax returns. The schedule forms are available from the Department of Revenue website at <http://www.dor.state.wi.us/html/taxind10.html>.
- Farmers collecting tax credits under farmland preservation zoning do not need to attach a zoning certificate to their 2010 income tax return.
- Farmers under farmland preservation zoning are eligible for \$7.50 per acre tax credits on all land that is zoned for farmland preservation, including the cropland, pastureland, farmstead, woodland, wetlands, grasslands, etc.
- Farmers entering farmland preservation agreements prior to July 1, 2009 (this includes agreements under 2009 Wisconsin Act 374) will continue to claim the previous tax credit under the old formula by filing Schedule FC with their income tax return.

- New agreements signed after July 1, 2009 must be located within an agricultural enterprise area. Because these AEAs did not become effective until January 1, 2011, no agreements will be eligible for the new tax credits under an agreement in tax year 2010.
- Farmers under farmland preservation agreements, unless these agreements are modified, are eligible for the previous tax credits under the old formula that are applied for using the Schedule FC. These farmers are required to meet the soil and water conservation standards applicable *when they applied* for the agreement. There are about 4,000 farms covered by farmland preservation agreements currently in effect.
- The soil and water conservation requirements (agricultural performance standards) include those listed in ATCP 50, Wis. Adm. Code, which includes requirements for soil erosion control, nutrient management plan, clean water diversion, manure storage facilities meeting standards, and the manure management prohibitions. These are required for all farmers participating under farmland preservation zoning, and farmland preservation agreements applied for after 2004. Farmers with agreements which they applied for prior to 2004 are subject to the soil and water conservation standards that were in effect when they applied for the agreement. Contact your county land conservation department for more information.
- Farmers under farmland preservation zoning that did not collect a farmland preservation tax credit in the previous year must obtain a Certificate of Compliance from the County Land Conservation Committee and department to be eligible to receive the tax credit. This certificate must be included with the tax return to be eligible for the credit. Farmers must be able to show that they meet the soil and water conservation requirements to receive the certificate. Farmers under zoning that did collect a tax credit in the previous year should contact their county land conservation department. These farmers will have to agree on a schedule of compliance to ensure they will meet the soil and water conservation requirements within a specific period of time, but before December 31, 2015.
- Gross farm revenue must come from agricultural use of the land. If land is rented, the owner can claim the tax credits based on gross farm revenue produced by the renter. The actual rent paid is not counted toward gross farm revenue. Also, payment received, such as payment for enrolling land in the federal conservation reserve program (CRP), and other state and federal programs can be used to meet the gross farm revenue requirement.
- Land that is under the Managed Forest Law (MFL) is eligible for the tax credit if the other minimum requirements, including the gross farm revenue, are met.
- Farmers may have to use both Schedule FC and FC-A if they have land that is under a farmland preservation agreement under the old law and other land under farmland preservation zoning.
- There is a \$10 per acre tax credit available for farmers with land under farmland preservation zoning and land under a farmland preservation agreement. This credit will in general not be available in the 2010 tax year because the only farmland preservation agreements eligible are those signed within the new Agricultural Enterprise Areas. The new AEAs covering about 200,000 acres did not take effect until Jan. 1, 2011 so were not in effect during tax year 2010. Farmers

modifying an old agreement to comply with the new law prior to submitting their 2010 tax return (or amended return), are the only farmers that will be eligible for the \$10 per acre credit if their land is both under an agreement and under zoning. If these modified agreements are not also under zoning, the farmer is eligible for a \$5.00 per acre per year credit for the 2010 tax year.

- A farmer is not eligible for the farmland preservation tax credit if they also apply for the Homestead Tax Credit on any of their land.

- Unless raised by the legislature, the new law places a cap of about \$27 million on overall farmland preservation program tax credits. If applications for the credits exceed that amount, the excess claims will be paid in the succeeding fiscal year (after July 1.) If that occurs, the Dept. of Revenue must prorate the per acre amounts based on the estimated amount of eligible claims for that fiscal year and the excess claims from the previous fiscal year.

For more information on the FPP tax credits, contact Sandy Weisensel, DATCP, (608) 224-4633 or Elaine Kroeger, DOR, (608) 266-2442.