

Farmland Preservation Agreements

-Frequently Asked Questions-

The timing of when a farmland preservation agreement was entered into is important when determining applicable laws, requirements and tax credits. Agreements entered into prior to July 1, 2009 or under 2009 WI Act 374 are considered to be “old” agreements. Agreements entered into after July 1, 2009 are considered to be “new” agreements.

What are the eligibility requirements for entering into a new farmland preservation agreement?

Only the owners of the land are eligible to enter into a new farmland preservation agreement. To enter into a farmland preservation agreement, the acres claimed must be located in a designated agricultural enterprise area and included in a farmland preservation area on the certified county farmland preservation plan.

Although there is no minimum acreage requirement, claimants must have \$6,000 in gross farm revenue in the past year or \$18,000 in the past three years.¹

To claim the income tax credit under a farmland preservation agreement, the entire farm must be in compliance with the state’s soil and water conservation standards.² A farm is all land under common ownership that is primarily devoted to agricultural use.

How do I calculate my income tax credit if I have an agreement?

There are two possible ways to calculate your credit under an agreement depending upon when the agreement was entered into.

If you are in a designated AEA and you enter into a new agreement after July 1, 2009, you calculate your income tax credit by multiplying the acres under the contract by \$5 (\$10 if you are also under certified farmland preservation zoning).³

If you have an agreement entered into prior to July 1, 2009 or that was entered into under 2009 WI Act 374 you must use the old formula to calculate your income tax credit which considers household income, property taxes and the existing local land use controls.⁴ These agreements may be modified to enable you to claim the \$5 per acre income tax credit (\$10 if you are also under certified farmland preservation zoning).

¹ Income from rental receipts of farm acres does not count toward gross farm revenue. However, gross farm revenue produced by the renter on the landowner’s farmland can be used to meet this eligibility requirement. Additionally, income from CRP contracts counts as gross farm revenue.

² The applicable soil and water conservation standards are those identified in ATCP 50 at the time of the application for an agreement.

³ Wisconsin Department of Revenue’s Schedule FC-A

⁴ Wisconsin Department of Revenue’s Schedule FC

The Department of Revenue will continue to use these two methods to calculate income tax credits for landowners under farmland preservation agreements until the last contract entered into prior to July 1, 2009 (or under Act 374) expires, or until all existing agreements have been modified.

What does it mean to modify the agreement?

Landowners with an existing agreement entered into prior to July 1, 2009 or that was entered into under 2009 WI Act 374 can modify the existing agreement to claim an income tax credit equal to \$5 per acre (\$10 if the covered land is under certified farmland preservation zoning).

- Modifying the agreement does not extend the current expiration date of an existing agreement.
- The land where the agreement is being modified must be in compliance with the existing farmland preservation agreement provisions in order for the agreement to be modified. This includes compliance with the soil and water conservation requirements in place when at the time of modification to claim the income tax credit.

In some cases, modifying the agreement may not make sense if the previous agreement expires in the next couple of years. A modified agreement may not include any lands not included in the previous agreement and all of the land owned by the person under the previous agreement must be covered under the modified agreement.

What are the benefits of being under a new agreement?

By entering into a new farmland preservation agreement, you may claim the enhanced farmland preservation income tax credit. This credit is equal to \$5 per acre (\$10 per acre if you are also in a certified farmland preservation zoning district).

A farmland preservation agreement does not protect land from annexation or from the exercise of eminent domain for public works projects. However, land in agricultural use and covered by a farmland preservation agreement is exempt from special assessments levied by a political subdivision, special purpose district or other local governmental entity for sanitary sewer or water. This protection is only available to a landowner within a designated AEA once they enter into a farmland preservation agreement with the state.

What are the land use restrictions under a new agreement?

New agreements are for 15 years and require that land use on the covered land remain in the following uses for the term of the agreement:

- agricultural use,
- accessory use,

- undeveloped natural resource and open space use, or
- minor pre-existing use which is compatible with agricultural use

You must comply with the state soil and water conservation standards if you wish to claim the income tax credit on land covered by a farmland preservation agreement. Conservation compliance is required on the entire farm, regardless of whether it is covered under an agreement. If you rent your land to an operator, the operator must follow a nutrient management plan on rented acres.

Land covered by an agreement does not require you to allow public access.

How do I show that I am in compliance with the soil and water conservation standards?

Landowners claiming farmland preservation tax credits must certify on their tax form that they comply with state soil and water conservation standards on all owned acres. This includes land that is owned but rented to another operator.

If you are a new claimant, you must submit a certification of compliance with soil and water conservation standards that has been issued by the county land conservation committee with your tax return. You have until the time you file your tax return for the year for which you are claiming to get a certificate of compliance.

If you have claimed the credit in tax year 2009 (related to a claim filed in 2010) and subsequently for 2010 (related to a claim filed in 2011), you must be in compliance with soil and water conservation standards or you must have a schedule of compliance designed to meet state conservation standards by a specific deadline set by the county (which cannot extend beyond December 31, 2015). For new agreements signed for collecting the new per acre credit, the farmer must be in compliance with the soil and water conservation standards in place at the time of the application for an agreement and receive a certificate of compliance from the county prior to being eligible for the tax credit.

Can I sign a new agreement for just a portion of my land?

You can enter into a new farmland preservation agreement that covers only a portion of your land. You must be prepared to provide a legal description for the area to be covered. This legal description could be a metes and bounds description from your deed or it may be from a CSM.

For example, a landowner may exclude a small area from coverage under an agreement to build a house for a son or daughter. The area to be excluded must be specified in the legal description provided at the time of application for the agreement.

The department can decide not to enter into an agreement with a landowner in a case where the pattern of excluded land may indicate future land use that is inconsistent with farmland preservation.

To claim the income tax credit, you must be in compliance on all owned acres, regardless of whether they are all covered by the agreement.

Can land be removed from under an agreement?

At the landowner's request, land can be removed from an agreement at any time prior to the expiration of the agreement.

Under a new agreement, for each acre of covered land released, the landowner would be required to pay a conversion fee equal to three times the per acre value of the highest value category of tillable cropland in the town in which the land is located, as specified by the Department of Revenue in the most recent *"Use-Value Guidelines for Agricultural Assessment"* found at <http://www.revenue.wi.gov/report/a.html>.

If land covered by a new agreement is removed for a public works project, the conversion fee must be paid by whomever owns the land at the time the land is removed from the agreement.

Anyone wishing to remove land from under an old agreement (entered into before July 1, 2009) must pay back the sum of all credits earned over the past 10 years with interest on all owned land, regardless of whether they owned the land or claimed the credit during all of those years.

When do the agreements expire?

Farmland preservation agreements expire at the end of the contract. Agreements entered into after July 1, 2009 expire after 15 years. These agreements are recorded at the county register of deeds, and therefore do not terminate upon death of the operator or sale of the land. Upon expiration of an agreement, the landowner may choose to enter into a new contract for another 15 year term.

How do we apply for a new agreement?

In order to get a new farmland preservation agreement on your land, you must submit a completed application form to the county clerk. The county must review and approve the application and forward the completed application to the department. Once received, the department will review the application and enter into the agreement with the landowner, if the application is in order.

To prepare for completing the application and claiming the tax credit, you should take the following steps:

- Determine what land you want covered by the agreement
- Communicate your interest in entering into an agreement with other owners of the farm and renters operating land to be covered
- Ensure that you have an adequate legal description for the land to be covered
- Identify the parcel tax id number of any parcels to be covered, fully or partially
- Get a map showing the area to be covered. If possible, provide an aerial photo with the parcel boundaries and numbers overlaid.
- Work with the county land conservation committee to determine compliance status and obtain a certification of compliance if you are a new participant.