

**CHAPTER 15**

**FARMLAND ASSESSMENT ACT**

**Authority**

N.J.S.A. 54:4-23.21.

**Source and Effective Date**

R.2017 d.001, effective November 23, 2016.  
See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

**Chapter Expiration Date**

Chapter 15, Farmland Assessment Act, expires on November 23, 2023.

**Chapter Historical Note**

Chapter 15, Farmland Assessment Act, was adopted before September 1, 1969.

Pursuant to Executive Order No. 66(1978), Chapter 15, Farmland Assessment Act, was readopted as R.1983 d.355, effective August 12, 1983. See: 15 N.J.R. 1082(a), 15 N.J.R. 1487(b).

Pursuant to Executive Order No. 66(1978), Chapter 15, Farmland Assessment Act, was readopted as R.1988 d.408, effective July 29, 1988. See: 20 N.J.R. 1066(a), 20 N.J.R. 2319(a). Pursuant to Executive Order No. 66(1978), Chapter 15 expired on July 29, 1993.

Chapter 15, Farmland Assessment Act, was adopted as new rules by R.1993 d.481, effective October 4, 1993. See: 25 N.J.R. 2653(a), 25 N.J.R. 4604(b).

Pursuant to Executive Order No. 66(1978), Chapter 15, Farmland Assessment Act, was readopted as R.1998 d.421, effective July 21, 1998. See: 30 N.J.R. 1922(a), 30 N.J.R. 3066(b).

Chapter 15, Farmland Assessment Act, was readopted as R.2004 d.62, effective January 12, 2004. See: 35 N.J.R. 4044(b), 36 N.J.R. 1226(a).

Chapter 15, Farmland Assessment Act, was readopted as R.2009 d.214, effective June 2, 2009. See: 41 N.J.R. 722(a), 41 N.J.R. 2713(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 15, Farmland Assessment Act, was scheduled to expire on June 2, 2016. See: 43 N.J.R. 1203(a).

Chapter 15, Farmland Assessment Act, was readopted as R.2017 d.001, effective November 23, 2016. See: Source and Effective Date. See, also, section annotations.

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. DEFINITIONS**

18:15-1.1 Words and phrases defined

**SUBCHAPTER 2. APPLICATION FOR FARMLAND ASSESSMENT**

- 18:15-2.1 Persons required to file
- 18:15-2.2 Forms FA-1 and FA-1 G.S. required; descriptive narrative for farms under seven acres
- 18:15-2.3 Form FA-1, signature and verification
- 18:15-2.4 Form FA-1 G.S.; signature; verification; income reporting
- 18:15-2.5 Extension of time for filing
- 18:15-2.6 Application forms; original and one copy
- 18:15-2.7 Additional conditions to be fulfilled by an owner of woodland that is devoted exclusively to the production for sale of trees and forest products other than Christmas trees and that is not appurtenant woodland

- 18:15-2.8 Supportive and subordinate woodland or wetlands presumption
- 18:15-2.9 Filing of copies with the Commissioner
- 18:15-2.10 Criteria of a woodland management plan
- 18:15-2.11 Acknowledgment of receipt
- 18:15-2.12 Notice of compliance or noncompliance by the Commissioner
- 18:15-2.13 On-site inspections
- 18:15-2.14 through 18:15-2.15 (Reserved)

**SUBCHAPTER 3. PROOF TO SUPPORT APPLICATION FOR FARMLAND ASSESSMENT**

- 18:15-3.1 Two-year period devoted to agricultural or horticultural use required
- 18:15-3.2 Area of land devoted to agricultural or horticultural use
- 18:15-3.3 Filing date
- 18:15-3.4 Representation as to use of land
- 18:15-3.5 Additional proof may be required by the assessor
- 18:15-3.6 Notice of disallowance of claim

**SUBCHAPTER 4. VALUE OF LAND QUALIFYING FOR FARMLAND ASSESSMENT**

- 18:15-4.1 Value defined
- 18:15-4.2 Indicia of value to be used
- 18:15-4.3 Usable evidence
- 18:15-4.4 Farmhouse land not agricultural use
- 18:15-4.5 Structures
- 18:15-4.6 through 18:15-4.8 (Reserved)

**SUBCHAPTER 5. TAXABLE VALUE OR ASSESSED VALUE OF FARMLAND**

- 18:15-5.1 Taxable value defined
- 18:15-5.2 Land not qualifying for farmland assessment
- 18:15-5.3 Recordation of taxable value
- 18:15-5.4 through 18:15-5.6 (Reserved)

**SUBCHAPTER 6. ACTIVELY DEVOTED TO AGRICULTURAL USE OR HORTICULTURAL USE**

- 18:15-6.1 Actively devoted to agricultural or horticultural use defined
- 18:15-6.2 Devoted to agricultural or horticultural use defined
- 18:15-6.3 Guidelines for generally accepted agricultural/horticultural practices
- 18:15-6.4 Evidence of anticipated yearly gross sales, fees, or payments
- 18:15-6.5 Failure to meet additional gross sales income requirements on acreage—roll-back

**SUBCHAPTER 7. ROLL-BACK TAXES**

- 18:15-7.1 When applicable
- 18:15-7.2 Liability attaches on land use change
- 18:15-7.3 Amount; computation
- 18:15-7.4 Tax years applicable
- 18:15-7.5 Change in use when land not assessed under the Act
- 18:15-7.6 Procedure for assessment, collection, apportionment, and payment of roll-back taxes
- 18:15-7.7 Due date
- 18:15-7.8 Lien date
- 18:15-7.9 Review of judgment of county board of taxation
- 18:15-7.10 Tax years when procedures applicable
- 18:15-7.11 through 18:15-7.14 (Reserved)

**SUBCHAPTER 8. CHANGE OF USE**

- 18:15-8.1 Effect
- 18:15-8.2 Change of use between certain dates
- 18:15-8.3 Effect of additional assessment on roll-back taxes
- 18:15-8.4 through 18:15-8.5 (Reserved)

**SUBCHAPTER 9. EQUALIZATION—STATE SCHOOL AID AND COUNTY APPORTIONMENT PURPOSES**

18:15-9.1 Apportionment valuation of land; classification; assessment ratio

**SUBCHAPTER 10. CONTINUANCE OF FARMLAND ASSESSMENT**

18:15-10.1 Continuous agricultural use for farmland assessment  
18:15-10.2 through 18:15-10.3 (Reserved)

**SUBCHAPTER 11. SEPARATION OR SPLIT-OFF**

18:15-11.1 Liability for roll-back taxes on land split-off  
18:15-11.2 Land still meeting requirements of the Act

**SUBCHAPTER 12. EMINENT DOMAIN**

18:15-12.1 Effect of roll-back taxes on eminent domain and condemnation

**SUBCHAPTER 13. CONTIGUOUS LAND IN MORE THAN ONE TAXING DISTRICT**

18:15-13.1 Determination of minimum area requirement  
18:15-13.2 through 18:15-13.3 (Reserved)

**SUBCHAPTER 14. STATE FARMLAND EVALUATION COMMITTEE**

18:15-14.1 Creation  
18:15-14.2 Meetings and duties  
18:15-14.3 Objectives  
18:15-14.4 Considerations in determining value  
18:15-14.5 Effect of assessor  
18:15-14.6 Development of agricultural or horticultural use values by assessors

**SUBCHAPTER 1. DEFINITIONS**

**18:15-1.1 Words and phrases defined**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Act” or “the Act” means the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq.

“Actively Devoted to Agricultural or Horticultural Use” refers specifically to the income and land area requirements necessary to qualify for farmland assessment, pursuant to N.J.S.A. 54:4-23.5. See also N.J.A.C. 18:15-6, Actively Devoted to Agricultural Use or Horticultural Use, for further guidelines.

“Agricultural use” means land that is devoted to the production for sale of plants and animals useful to man, including, but not limited to:

1. Forages and sod crops;
2. Grains and feed crops;
3. Dairy animals and dairy products;
4. Poultry and poultry products;

5. Livestock, including beef cattle, sheep, swine, horses, ponies, mules, goats, or aquatic organisms, and the breeding, boarding, raising, rehabilitating, training, or grazing of any or all such animals, except that livestock does not include dogs;

6. Bees and apiary products;

7. Fur animals;

8. Trees and forest products (see also N.J.A.C. 18:15-2.7 for additional conditions);

9. When devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the Federal government; or

10. Biomass, solar, or wind energy generation, provided that the biomass, solar, or wind energy generation is consistent with the provisions of N.J.S.A. 4:1C-32.4 et seq., as applicable, and the rules promulgated thereunder, except that the energy generated from such use is not considered an agricultural product and, therefore, cannot be considered income towards the gross sales requirement.

“Approved forester” means a forester whose name is entered on the List of Approved Foresters established and maintained by the New Jersey Department of Environmental Protection in accordance with N.J.A.C. 7:3-3.

“Appurtenant woodland” means a wooded piece of property which is contiguous to, part of, or beneficial to a tract of land, which tract of land has a minimum area of at least five acres devoted to agricultural or horticultural uses other than the production for sale of trees and forest products, exclusive of Christmas trees, to which tract of land the woodland is supportive and subordinate.

“Aquaculture” means the propagation, rearing and harvesting for sale of aquatic organisms, in controlled or selected environments in which the farmer must actively intervene in the rearing process in order to effect, improve or increase production for the purpose of sale.

“Assessor” means the municipal tax assessor or deputy tax assessor appointed pursuant to the provisions of N.J.S.A. 40A:9-46 et seq., or the county assessor, deputy county assessor, and additional staff as established under N.J.S.A. 54:1-86 et seq., and N.J.A.C. 18:17A.

“Beneficial to a tract of land” means land which enhances the use of other land devoted to agricultural or horticultural production by providing benefits such as, but not limited to, windbreaks, watershed, buffers, soil erosion control, or other recognizable enhancements of the viability of the qualifying land.

“Biomass” means an agricultural crop, crop residue, or agricultural byproduct that is cultivated, harvested, or produced on the farm, or directly obtained from a farm where it was

cultivated, harvested, or produced, and which can be used to generate energy in a sustainable manner.

"Change of use" means when land that is being assessed under the Act is subsequently used for something other than agricultural or horticultural purposes. See also N.J.A.C. 18:15-8, Change of Use. Cessation of farming may be considered a change of use. However, an immaterial change of use is not necessarily a change of use if the dominant use remains agricultural or horticultural. Rotating crops or land use, or leaving land fallow for one year or less, may not be a change of use.

"Commissioner" means the Commissioner of the New Jersey Department of Environmental Protection or his or her representative.

"Conservation plan" means a site-specific plan that prescribes land treatment and related conservation and natural resources management measures that are considered to be necessary, practical, and reasonable for the conservation, protection, and development of natural resources, the maintenance and enhancement of agricultural or horticultural productivity, and the control and prevention of non-point source pollution.

"Contiguous" means land that is bordering, touching, in actual physical contact with, adjoining, or abutting land immediately next to it, with no intervening land in between, except for a public thoroughfare, railroad right of way, or public waterway.

"Cover crop" is any annual, biennial, or perennial plant grown to manage soil fertility, soil quality, water, unwanted plants, and pests that limit crop production potential, on land in an agricultural or horticultural use.

"Crop rotation" is the practice of growing a series of dissimilar types of crops in the same area in sequential seasons for various benefits, such as to avoid the buildup of pathogens and pests that often occurs when one species is continuously cropped.

"Cropland harvested" means land with the highest use in agriculture. All land from which a crop was harvested in the current year falls into this category.

"Cropland pastured" means land that can be and often is used to produce crops, but its maximum income may not be realized in a particular year. Land that is fallow or sown in cover crops as part of a rotational program falls into this classification.

"Devoted to agricultural or horticultural use" refers not only to the land that produces agricultural and horticultural products for sale at wholesale or retail, but also to the land that is supportive and has a relationship to the agricultural and horticultural products produced for sale. See also N.J.A.C. 18:15-6, Actively Devoted to Agricultural Use or Horticultural Use, for further guidelines.

"Fallow land" means land kept free of growing plants during the growing season using cultivation or chemical control to eradicate or reduce weeds for future agricultural production.

"Farm management unit" means a parcel or parcels of land, whether contiguous or noncontiguous, together with agricultural or horticultural buildings, structures, and facilities, producing agricultural or horticultural products, and operated as a single enterprise. If the parcel or parcels of land are noncontiguous, the parcel or parcels must meet the minimum five acre criteria for farmland assessment.

"Farmland assessment" means valuation, assessment, and taxation under the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq., and N.J.S.A. 54:4-23.3c, except that there is no income requirement for any portion of any property devoted to energy generation, and no income from any power or heat sold by the energy generation facility is eligible as income for farmland assessment purposes.

"Fees received for grazing" means only those fees that are actually paid in consideration for grazing and which reasonably reflect the value of the grazing provided. The income which would otherwise be imputed to the land used for grazing as established and determined by the State Farmland Evaluation Committee is prima facie evidence of those fees which reasonably reflect the value of the grazing provided.

"Gross Sales Form" means a supplemental form, issued by the Director of the Division of Taxation, required to be filed with the Farmland Assessment Application and submitted to the assessor to verify that the gross sales criteria for active devotion on the property is met. See N.J.A.C. 18:15-2.2, 2.3, 2.4, and 2.5.

"Horticultural use" means land that is devoted to the production for sale of fruits of all kinds, including grapes, nuts, and berries; vegetables; nursery, floral, ornamental, and greenhouse products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the Federal government; and includes biomass, solar, or wind energy generation, provided that the biomass, solar, or wind energy generation is consistent with the provisions of N.J.S.A. 4:1C-32.4 et seq., and 54:4-23.3c, as applicable, and the rules adopted thereunder, except that the energy generated from such use is not considered a horticultural product.

"Immediate family member" means a person's spouse, civil union partner, domestic partner, child, parent, or sibling residing in the same household.

"Income imputed to land used for grazing" means values for the pasturing of livestock as established by the State Farmland Evaluation Committee.

"Land used for biomass, solar, or wind energy generation" means the land upon which the biomass, solar, or wind en-

ergy generation facilities, structures, and equipment are constructed, installed, and operated. In the case of biomass energy generation, land used for biomass, solar, or wind energy generation does not mean the land upon which agricultural or horticultural products used as fuel in the biomass energy generation facility, structure, or equipment are grown.

“Mixed-use property” means farm property that meets the criteria to qualify for farmland assessment and contains both acreage devoted to non-appurtenant woodlands under an approved woodland management plan and acreage devoted to other agricultural/horticultural use.

“Non-appurtenant woodland” means woodland that is neither supported nor subordinate to other farmland and which can only qualify for farmland assessment on the basis of being in compliance with a woodland management plan filed with the Department of Environmental Protection. Non-appurtenant woodland is actively devoted to the production for sale of tree and forest products.

“Pasturing of livestock or poultry” means a land area used to support a group of grazing animals enclosed by fencing and devoted to the production of forage for harvest primarily by grazing. It may include a wooded area for shelter, have a number of paddocks, or may be rested for a specific time not to exceed one year as part of a particular grazing management practice.

“Permanent pasture” means land that is not cultivated because its maximum economic potential is realized from grazing or as part of erosion control programs. Animals may or may not be part of the farm operation for land to be qualified in this category.

“Pre-tax year” means the calendar year immediately preceding the “tax year.”

“Preserved farmland” means land on which a development easement was conveyed to, or retained by, the State Agriculture Development Committee, a county agriculture development board, or a qualifying tax exempt nonprofit organization pursuant to the provisions of N.J.S.A. 4:1C-31, 4:1C-31.1, 4:1C-38, 4:1C-43.1, 13:8C-37 through 13:8C-40, or any other State law enacted for farmland preservation purposes. The landowner of preserved farmland must meet the eligibility requirements of farmland assessment and submit an annual application to the assessor in order to receive farmland assessment for the property.

“Raising livestock” means the management, caring, and feeding of livestock for the purpose of producing for sale as a farm product, either the livestock themselves or products produced therefrom.

“Ratio of one-to-five acres, or portion thereof” means for each acre of land, or portion thereof, devoted to biomass, solar, or wind energy generation facilities, structures, and equipment, not exceeding 10 acres, there are at least another five contiguous acres devoted to agricultural or horticultural

production as defined in the Farmland Assessment Act prior to being amended by P.L. 2009, c. 213. This ratio limits farmland qualification for land devoted to energy generation facilities to a ratio not to exceed one acre devoted to such facilities to five acres of land otherwise qualifying under traditional (that is, pre-P.L. 2009, c. 213) farmland assessment “apart from” that one acre. This is a ratio of 16.67 percent but for simplification purposes, the Division accepts a ratio rounded up to 17.00 percent.

“Recreation and conservation purposes” means the use of lands for beaches, biological or ecological study, boating, camping, fishing, forests, greenways, hunting, natural areas, parks, playgrounds, protecting historic properties, water reserves, watershed protection, wildlife preserves, active sports, or a similar use for either public outdoor recreation or conservation of natural resources, or both.

“Roll-back taxes” means the additional taxes imposed upon land after a change from an agricultural or horticultural use to a non-farming use takes place.

“Seasonal agricultural labor housing” means dwelling units designed solely for lodging farm employees and their family members, including their civil union partners or domestic partners, where such employees perform seasonal agricultural or horticultural labor on the contiguous land, five acres or more, qualifying for farmland assessment. Any housing that is either occupied by the landowner, the landowner’s spouse, the landowner’s civil union partner, the landowner’s domestic partner, or their children, parents, or siblings, or is not vacant annually for a minimum period of 90 continuous days during any period of 12 continuous months, is not considered to be “seasonal agricultural labor housing.”

“Seasonal farm market” means a facility utilized for the primary purpose of selling predominantly agricultural or horticultural products, and which is annually closed to business during the off season for a period of not less than 90 continuous days.

“Single-use agricultural or horticultural facility” means silos, greenhouses, hoop houses, grain bins, manure handling equipment, and impoundments employed in farming operations and commonly used for either storage or growing, which are designed or constructed, so as to be readily dismantled and also includes, but is not limited to, temporary demountable plastic-covered framework made up of portable parts with no permanent understructures or related apparatus, commonly known as seed starting plastic greenhouses, and is of a type which can be marketed or sold separately from the farmland and buildings. Single-use agricultural or horticultural facility does not include a structure that encloses a space within its walls used for housing, shelter, working, office, or sales space, whether or not removable.

“Supportive and subordinate wetlands” means a wetlands piece of property, which is beneficial to, or reasonably required for, the purpose of maintaining the agricultural or

horticultural uses of a tract of land, which tract of land has a minimum area of at least five acres devoted to agricultural or horticultural uses.

"Supportive and subordinate woodland" means a wooded piece of property which is beneficial to or reasonably required for the purpose of maintaining the agricultural or horticultural uses of a tract of land, which tract of land has a minimum area of at least five acres devoted to agricultural or horticultural uses other than to the production for sale of trees and forest products, exclusive of Christmas trees.

"State Forester" means the chief forester or his or her designee, employed by the Department of Environmental Protection.

"Tax year" means the calendar year in which the local property tax is due and payable.

"Two megawatts of power," as permitted on land that qualifies for farmland assessment, means an energy facility producing up to that amount of power under single ownership and operating as a single economic and functional unit.

"Unified title or single ownership" means common ownership by one distinct legal entity, of one or more contiguous parcels together.

"Wetlands" means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

"Woodland data form" means a supplemental form required to be filed with the assessor and the Commissioner by an owner of woodland as set forth in N.J.A.C. 18:15-2.7.

"Woodland management plan" means a plan prepared in accordance with criteria set forth in N.J.A.C. 18:15-2.10 and which is required to be filed with the assessor and the Commissioner by an owner of non-appurtenant woodland as set forth in N.J.A.C. 18:15-2.7.

Amended by R.1987 d.507, effective December 7, 1987 (operative January 1, 1988).

See: 19 N.J.R. 1538(a), 19 N.J.R. 1640(b), 19 N.J.R. 2304(a).

Added definitions.

Amended by R.1997 d.405, effective October 6, 1997.

See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).

Added "Fees received for grazing", "Immediate family member", "Income imputed to land used for grazing", "Raising livestock", "Seasonal agricultural labor housing", and "Seasonal farm marketing"; and amended "Agricultural use" and "Assessor".

Amended by R.2004 d.62, effective March 1, 2004.

See: 35 N.J.R. 4044(b), 36 N.J.R. 1226(a).

Amended "Agricultural use" and "Seasonal agricultural labor housing"; added "Aquaculture", "Recreation and conservation purposes", and "Wetlands".

Amended by R.2013 d.022, effective February 19, 2013.

See: 44 N.J.R. 2289(b), 45 N.J.R. 352(a).

Rewrote definitions "Actively Devoted to Agricultural or Horticultural Use", "Assessor", "Farmland assessment" and "Horticultural use";

added definitions "Biomass", "Conservation plan", "Contiguous", "Cover crop", "Crop rotation", "Cropland harvested", "Cropland pastured", "Devoted to agricultural or horticultural use", "Fallow land", "Land used for biomass, solar, or wind energy generation", "Non-appurtenant woodland", "Pasturing of livestock or poultry", "Permanent pasture", "Preserved farmland", "Ratio of one-to-five acres, or portion thereof", "Single-use agricultural or horticultural facility", "Supportive and subordinate wetlands", "Two megawatts of power" and "Unified title or single ownership"; substituted definition "Change of use" for definition "Change in Use", definition "Pre-tax year" for definition "Pre-tax Year", definition "Roll-back taxes" for definition "Roll-back Taxes" and definition "Tax year" for definition "Tax Year"; rewrote definition "Change of use"; and in definition "Pre-tax year", substituted "tax year." for "tax year."

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

In the introductory paragraph, inserted a comma following "meanings", and substituted a period for a semicolon; substituted definition "Act" or "the Act" for "Act" or "The Act", and rewrote the definition; in definition "Agricultural use", rewrote 5 and 10; rewrote definitions "Approved forester", "Assessor", "Preserved farmland", and "Seasonal agricultural labor housing", in definition "Change of use", substituted "an immaterial" for "a de minimis"; in definition "Commissioner", inserted "or her"; in definition "Conservation plan", substituted "considered" for "deemed"; in definition "Cropland pastured", inserted "sown" and substituted "into" for "in"; added definitions "Farm management unit", "Gross Sales Form", and "Mixed-use property"; in definition "Farmland assessment", updated the statutory citations and substituted the second occurrence of "is" for "shall be"; in definition "Fees received for grazing", substituted the first occurrence of "that" for "which" and "is" for "shall be", and deleted "Advisory" following "Evaluation"; in definition "Horticulture use", updated the statutory citations, and substituted "is not" for "shall not be"; in definition "Immediate family member", inserted "civil union partner, domestic partner"; in definition "Income imputed to land used for grazing", deleted "Advisory" following "Evaluation"; in definition "Land used for biomass, solar, or wind energy generation", removed quotation marks before the second occurrence of "land" and following the second occurrence of "generation" and substituted "does" for "shall"; in definition "Raising livestock", inserted commas following "caring" and "product"; in definition "Ratio of one-to-five acres, or portion thereof", substituted the first occurrence of "This" for "In other words, this"; in definition "Roll-back taxes", substituted "from an agricultural or horticultural use to a non-farming" for "in"; in definition "Single-use agricultural or horticultural facility", inserted a comma following "constructed", deleted "shall" preceding "also", substituted "includes, but is not" for "include, but not be" and "Single-use agricultural or horticultural facility does" for "but shall"; in definition "Woodland data form", substituted "Commissioner" for "commissioner"; and in definition "Woodland management plan" substituted "Commissioner" for "commissioner" and inserted "non-appurtenant".

#### Statutory References

As to land deemed in agricultural use, see N.J.S.A. 54:4-23.3.

As to land deemed in horticultural use, see N.J.S.A. 54:4-23.4.

As to roll-back taxes, see N.J.S.A. 54:4-23.8; As to procedure for assessment, collection, payment, see N.J.S.A. 54:4-23.9.

#### Case Notes

Municipality's claim of intentional or negligent misclassification against assessor was refuted. *Borough of Franklin Lakes v. Mutzberg*, 226 N.J. Super. 46, 543 A.2d 477 (A.D.1988).

Property used for growing trees qualified as farmland. *Borough of Franklin Lakes v. Mutzberg*, 226 N.J. Super. 46, 543 A.2d 477 (A.D.1988).

## SUBCHAPTER 2. APPLICATION FOR FARMLAND ASSESSMENT

### 18:15-2.1 Persons required to file

In order that land in agricultural or horticultural use may be assessed under the Act, the landowner must file an application Form FA-1 requesting such assessment and Form FA-1 G.S. to verify gross sales with the assessor of the taxing district in which such land is situated on or before August 1 of the pre-tax year. For contiguous lands straddling more than one taxing district, see N.J.S.A. 54:4-23.18.

R.1971 d.138, effective August 12, 1971.

See: 3 N.J.R. 185(a), 3 N.J.R. 138(b).

Amended by R.1984 d.125, effective April 16, 1984.

See: 15 N.J.R. 2152(a), 16 N.J.R. 925(b).

Amended by R.1985 d.310, effective June 17, 1985.

See: 17 N.J.R. 903(a), 17 N.J.R. 1587(a).

Text "in" substituted for "is".

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Rewrote the section.

#### Statutory References

As to application for form--assessment, see N.J.S.A. 54:4-23.6(c).

#### Case Notes

Motion for summary judgment in assessment appeal denied due to issue of fact concerning whether the taxpayer filed a farmland valuation application by the August 1 deadline for the tax year. *Haahomer Hatzair, Inc. v. East Windsor Tp.*, 1 N.J.Tax 113, 176 N.J.Super. 250, 422 A.2d 808 (Tax Ct.1980).

Taxpayer's applications for farmland assessments were based on claim that property was used for agricultural purposes. *Interstate 78 Office Park, Ltd. v. Tewksbury Tp.*, 11 N.J.Tax 172 (1990).

Filing deadline of August 1 of the pretax year for farmland assessment is mandatory and may not be tolled. *Galloway Tp. v. Petkevis*, 2 N.J.Tax 85 (Tax Ct.1980).

### 18:15-2.2 Forms FA-1 and FA-1 G.S. required; descriptive narrative for farms under seven acres

(a) Application for assessment under the Act may be made only upon completion of the form prescribed by the Director, identified as Form FA-1. Copies of the form may be obtained from the assessor of each taxing district who is required to provide said form for use by applicants upon request. The application must be filed on or before August 1 of the pre-tax year. Late applications will be denied. Land in a farmland preservation program must also meet the criteria and filing requirements of the Farmland Assessment Act for land to be taxed at its productivity value.

(b) Verification of gross sales to meet the active devotion requirement for farmland assessment application may be made by completion of the form prescribed by the Director, identified as Form FA-1 G.S. Copies of the form may be obtained from the assessor of each taxing district who is required to provide said form for use by applicants upon request.

(c) The annual filing of an FA-1 application reflects the extent of any changes in farming or the woodland manage-

ment activity from year-to-year and any revisions to cropland, pasture, or woodland acreage, or the number of livestock. The annual filing of Form FA-1 G.S. reflects the amount of gross sales generated, or anticipated to be generated, from the production of plants or animals useful to man sold at retail or wholesale, or income imputed pursuant to N.J.S.A. 54:4-23.5, to meet the minimum income criteria for the property. It is the responsibility of the landowner to complete the application by following the instructions on the back of the Form FA-1, Form FA-1 G.S., and Form WD-1, if applicable, and to submit an activity map and to sign the application. An incomplete application is grounds for denial.

(d) The applicant, on request of the assessor, at any time, must furnish proof of all the prerequisites necessary to show the land is eligible for farmland assessment, such as: ownership, description, area, uses, and adequate sales and income or fees from the agricultural or horticultural use of the land.

(e) Approval or denial of the Form FA-1 and Form FA-1 G.S. is the responsibility of the tax assessor. Determination of compliance or non-compliance with the woodland management plan, Form WD-1, is the responsibility of the State Forester.

(f) For farmland management units that have fewer than seven acres that qualify for farmland assessment, that is, excluding the homestead or acreage not receiving farmland assessment, a descriptive narrative describing the agricultural and/or horticultural uses on the acreage and a sketch of the location of the activity must be submitted with the application for farmland assessment.

1. The descriptive narrative should sufficiently describe the location of the different farming activities on the property and contain a brief description of the activity in each season for the activity.

2. The sketch of the property should be sufficiently detailed for use in conjunction with the descriptive narrative for the assessor to verify that the activities on the property are as represented when conducting an inspection of the farm. A landowner who has already submitted a map for a woodland management plan pursuant to N.J.S.A. 54:4-23.3 and N.J.A.C. 18:15-2.8 is not required to submit an additional sketch of the property for the purposes of this section.

Amended by R.1984 d.125, effective April 16, 1984.

See: 15 N.J.R. 2152(a), 16 N.J.R. 925(b).

Amended by R.1985 d.310, effective June 17, 1985.

See: 17 N.J.R. 903(a), 17 N.J.R. 1587(a).

Text "said" substituted for "such".

Amended by R.2013 d.022, effective February 19, 2013.

See: 44 N.J.R. 2289(b), 45 N.J.R. 352(a).

Added designation (a); in (a), substituted "Act" for "act"; and added (b) through (d).

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Section was "Form FA-1 required". Rewrote the section.

## Statutory References

As to form for application, see N.J.S.A. 54:4-23.14.

**18:15-2.3 Form FA-1, signature and verification**

(a) Form FA-1 is to be filed by the owner of the land at the time the application for farmland assessment is made. In the case of multiple ownerships (except corporate co-owners) one of the owners may sign on behalf of the other co-owners, and such signer will be presumed to have authority to sign on behalf of the other owners. In the case of a corporate owner or owners the full name of the corporation must be provided on the application accompanied by the signature and title of the corporate officer authorized to sign the application on its behalf.

(b) Where an application is filed for lands not previously qualified for farmland assessment, unless the owner has submitted a woodland management plan pursuant to N.J.A.C. 18:15-2.7, the owner shall also submit a map of land use classes and soil groups, as described in the most recent Report of the State Farmland Evaluation Committee published annually each October 1.

Amended by R.1984 d.125, effective April 16, 1984.  
See: 15 N.J.R. 2152(a), 16 N.J.R. 925(b).  
Amended by R.1985 d.310, effective June 17, 1985.  
See: 17 N.J.R. 903(a), 17 N.J.R. 1587(a).

Form FA-1S deleted from section.  
Amended by R.1997 d.405, effective October 6, 1997.  
See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).  
Added (b).

Amended by R.2017 d.001, effective January 3, 2017.  
See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

In (a), deleted "The application," preceding "Form FA-1" and substituted "provided on the application" for "filled in, and"; and rewrote (b).

## Statutory References

As to form for application, see N.J.S.A. 54:4-23.14.

**18:15-2.4 Form FA-1 G.S.; signature; verification; income reporting**

(a) The gross sales verification, Form FA-1 G.S., is to be filed by the owner of the land at the time the application for farmland assessment is made. In the case of multiple ownerships, except corporate co-owners, one of the owners may sign on behalf of the other co-owners, and such signer will be presumed to have authority to sign on behalf of the other owners. In the case of a corporate owner or owners, the full name of the corporation must be provided on the application, accompanied by the signature and title of the corporate officer authorized to sign the application on its behalf.

(b) In the case where a product from the farm will not be sold until after the August 1 filing deadline, the applicant must still provide the name(s) of the product(s), an estimate of the gross sales attributable to the product(s) and the date(s) when the product(s) will be sold.

(c) In reporting the activities and the acreage on which those activities occur, the applicant should not include non-income-producing acres, such as fallow acres, land sown with cover crops, appurtenant woodlands, and appurtenant wetlands. However, non-income-producing acres should be included in the section for total acreage despite not producing income themselves.

R.1971 d.138, effective August 12, 1971.  
See: 3 N.J.R. 185(a), 3 N.J.R. 138(b).  
Amended by R.1979 d.87, effective March 8, 1979.  
See: 11 N.J.R. 100(b), 11 N.J.R. 210(b).  
Amended by R.1984 d.125, effective April 16, 1984.  
See: 15 N.J.R. 2152(a), 16 N.J.R. 925(b).  
Amended by R.1985 d.310, effective June 17, 1985.  
See: 17 N.J.R. 903(a), 17 N.J.R. 1587(a).

Substantially amended.  
Amended by R.1997 d.405, effective October 6, 1997.  
See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).

Amended revision date for Form FA-1.  
Amended by R.2004 d.62, effective March 1, 2004.  
See: 35 N.J.R. 4044(b), 36 N.J.R. 1226(a).

Deleted the last two sentences.  
Repeal and New Rule, R.2017 d.001, effective January 3, 2017.  
See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).  
Section was "Annual filing required".

## Statutory References

As to time for application, see N.J.S.A. 54:4-23.6(c), 54:4-23.12, 54:4-23.13.

## Case Notes

Assessment at full value not reviewable under statute. *Hovbilt, Inc. v. Township of Howell*, 138 N.J. 598, 651 A.2d 77 (1994).

Burden of proof rests with landowners applying for farmland assessment. *Hovbilt, Inc. v. Township of Howell*, 138 N.J. 598, 651 A.2d 77 (1994).

**18:15-2.5 Extension of time for filing**

(a) The owner of land in horticultural or agricultural use may file an application after August 1, but before December 1 of the pre-tax year if the taxing district in which the land is located completes a revaluation of all real property in time to be reflected in the assessments for the next succeeding tax year, but not in sufficient time to permit applications to be made prior to the deadlines established pursuant to N.J.S.A. 54:4-23.13a.

(b) The assessor may grant an extension of time for filing the application for farmland assessment, which shall terminate no later than September 1 of the year immediately preceding the tax year, where it appears to the satisfaction of the assessor that failure to file by August 1 was due to:

1. The illness of the owner, established by a certification of a physician stating that the owner was physically incapacitated and unable to file on or before August 1 and the application is filed with the assessor; or
2. The death of the owner or an immediate member of the owner's family established by a certified copy of the death certificate and the application is filed with the asses-

sor by the individual legally responsible for the estate of the owner, or by the owner, as the case may be.

i. An assessor shall not approve an extension of time to file an application for farmland assessment in cases where the death of the owner or a member of the owner's immediate family occurred prior to January 1 of the pre-tax year.

3. Application for extension for filing an application under the Act pursuant to this subsection may be made only upon completion of the form prescribed by the Director, identified as Form FA-X. Copies of the form may be obtained from the assessor of each taxing district who is required to provide said form upon request by the applicant.

4. Form FA-X is to be filed by the owner of the land by August 1 of the pre-tax year. In cases of multiple ownerships, except corporate co-owners, one of the owners may sign on behalf of the other co-owners, and such signer will be presumed to have authority to sign on behalf of the other owners. In the case of a corporate owner or owners, the full name of the corporation must be provided on the application, and accompanied by the signature and title of the corporate officer authorized to sign the application on its behalf.

R.1971 d.138, effective August 12, 1971.  
See: 13 N.J.R. 185(a), 3 N.J.R. 138(b).  
Amended by R.1984 d.125, effective April 16, 1984.  
See: 15 N.J.R. 2152(a), 16 N.J.R. 925(b).  
Amended by R.1985 d.310, effective June 17, 1985.  
See: 17 N.J.R. 903(a), 17 N.J.R. 1587(a).  
"An" substituted for "the".  
Amended by R.1997 d.405, effective October 6, 1997.  
See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).  
In (a), amended date from December 31 to December 1 and inserted reference to reassessment; and added (b).  
Amended by R.2004 d.62, effective March 1, 2004.  
See: 35 N.J.R. 4044(b), 36 N.J.R. 1226(a).  
In (a), inserted ", but not in sufficient time to permit applications to be made prior to the deadlines established pursuant to N.J.S.A. 54:4-23.13a" at the end.  
Amended by R.2017 d.001, effective January 3, 2017.  
See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).  
Rewrote (b).

#### Statutory References

N.J.S.A. 54:4-23.13a.

#### 18:15-2.6 Application forms; original and one copy

(a) The original Form FA-1 submitted to the assessor shall be retained in the office of the assessor.

(b) One copy of each application will be forwarded to the county tax administrator prior to January 1 of the tax year. The county tax administrator shall review the FA-1 applications as he or she considers necessary, assemble the applications in district order and forward them to the Division of Taxation, Property Administration, Local Property Branch no later than February 15 of the same tax year.

(c) Each copy of the FA-1 application, in the space reserved for official use, must be signed and dated by the assessor and be marked "approved" or "disapproved."

(d) The original Form FA-1 G.S. submitted to the assessor must be retained in the office of the assessor. No other copies of Form FA-1 G.S. are required to be submitted to the county tax board administrator and the Division of Taxation.

(e) Each copy of the gross sales verification, in the space reserved for official use, must be signed and dated by the assessor and be marked "approved" or "disapproved."

R.1971 d.138, effective August 12, 1971.  
See: 3 N.J.R. 185(a), 3 N.J.R. 138(b).  
Amended by R.1984 d.125, effective April 16, 1984.  
See: 15 N.J.R. 2152(a), 16 N.J.R. 925(b).  
Amended by R.1985 d.310, effective June 17, 1985.  
See: 17 N.J.R. 903(a), 17 N.J.R. 1587(a).

Substantially amended.  
Amended by R.1997 d.405, effective October 6, 1997.  
See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).

In (b), changed from two copies to one and forwarding date from January 10 to January 1, substituted county tax administrator for Local Property and Public Utility Branch, and added administrator review provision.

Amended by R.2017 d.001, effective January 3, 2017.  
See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Rewrote the section.

#### Statutory References

N.J.S.A. 54:4-23.21.

#### 18:15-2.7 Additional conditions to be fulfilled by an owner of woodland that is devoted exclusively to the production for sale of trees and forest products other than Christmas trees and that is not appurtenant woodland

(a) The owner of land that is devoted exclusively to the production for sale of trees and forest products, other than Christmas trees, and that is not appurtenant woodland shall annually submit to the assessor, in addition to a completed and timely filed application for farmland assessment (Form FA-1) and gross sales verification form (Form FA-1 G.S.), the following information:

1. A copy of the current woodland management plan for the landowner's woodlands prepared in accordance with the criteria set forth at N.J.A.C. 18:15-2.10. Unless the assessor requests such re-submission, re-submission of the current plan is not required if the plan was previously submitted to the assessor and the owner indicates on Form WD-1 that there is no change in the plan as initially submitted or, if applicable, when it was most recently revised and re-submitted. However, any new plan or amended plan not yet on file with the assessor must be submitted.

2. A completed woodland data form (Form WD-1), as prescribed by the Director of the Division of Taxation. The information provided on such form must apply to the entire pre-tax year and include the following:



- i. A description of all woodland management activities and practices carried out or to be carried out;
- ii. A statement as to the type and quantity of tree and forest products sold or to be sold;
- iii. The amount of income received and an estimate of additional income anticipated to be received from the sale of trees and forest products;
- iv. A certification in lieu of an oath signed by both the landowner and an approved forester stating that the land is woodland, actively devoted to agricultural use, that the activities and practices reported on Form WD-1 have been or will be carried out in the pre-tax year, their implementation represents compliance with the filed woodland management plan, and that the information provided on the form is true and correct; and
- v. A certification in lieu of an oath signed by the landowner stating that the income reported on Forms FA-1 G.S. and WD-1 as received or anticipated to be received from the sale of trees and forest products is valid and true and, if any activities and practices reported on the form have not been completed at the time of its submission, that they will be completed within the pre-tax year.

(b) The activities and practices listed on Form WD-1 must be completed by the end of the calendar year.

(c) If the documents set forth in (a) above are not submitted annually to the assessor, the application will be denied and such land will not be considered to be in agricultural use.

(d) The assessor shall not approve an application that includes woodland that is not appurtenant woodland until a woodland management plan has been prepared and approved by the State Forester and the owner has managed the woodland in accordance with the approved plan for at least the two successive years immediately preceding the tax year for which valuation, assessment, and taxation under the Farmland Assessment Act is requested.

New Rule, R.1987 d.507, effective December 7, 1987 (operative January 1, 1988).

See: 19 N.J.R. 1538(a), 19 N.J.R. 1640(b), 19 N.J.R. 2304(a).

Amended by R.2004 d.62, effective March 1, 2004.

See: 35 N.J.R. 4044(b), 36 N.J.R. 1226(a).

In (a), rewrote 1; inserted a new (b); and recodified former (b) as (c).

Amended by R.2013 d.022, effective February 19, 2013.

See: 44 N.J.R. 2289(b), 45 N.J.R. 352(a).

Section was "Additional conditions to be fulfilled by an owner of woodland which is devoted exclusively to the production for sale of trees and forest products other than Christmas trees or the owner of woodland which is not supportive and subordinate woodland". Rewrote the introductory paragraph of (a) and (a)1 and (a)3; in (b), inserted "activities and"; in (c), inserted "the application shall be denied and"; and added (d).

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Rewrote (a); in (b), substituted "Form WD-1" for "the WD-1 Form"; and in (c), substituted the first occurrence of "will" for "shall", and "will not be considered" for "shall be deemed not".

Case Notes

Determination by assessor in jurisdiction bordering township that property in that jurisdiction did not qualify for farmland assessment did not justify township's assessment of roll-back taxes at nonfarmland rates, where land in question remained in agricultural use. *Snyder v. Township of Sparta*, 16 N.J.Tax 321 (1997).

Woodland property did not qualify for farmland assessment; no income; no horticultural or agricultural activity. *Estell Manor City v. Stern*, 14 N.J.Tax 394 (1995).

18:15-2.8 Supportive and subordinate woodland or wetlands presumption

(a) A woodland or wetlands piece of property is presumed to be supportive and subordinate woodland or wetlands when its area is equal to or less than the area of the farmland property qualifying for agricultural or horticultural uses other than the production for sale of trees and forest products, exclusive of Christmas trees.

(b) An owner claiming farmland assessment for a woodland or wetlands piece of property exceeding the amount set forth in (a) above as presumed to be supportive and subordinate woodland or wetlands, shall submit an explanation and additional proofs as the assessor may require to support the claim that such woodland or wetlands is supportive and subordinate.

New Rule, R.1987 d.507, effective December 7, 1987 (operative January 1, 1988).

See: 19 N.J.R. 1538(a), 19 N.J.R. 1640(b), 19 N.J.R. 2304(a).

Amended by R.2013 d.022, effective February 19, 2013.

See: 44 N.J.R. 2289(b), 45 N.J.R. 352(a).

Section was "Supportive and subordinate woodland presumption". In (a) and (b), substituted "woodland or wetlands" for "wooded", and inserted "or wetlands" following "subordinate woodland"; in (a), deleted "as described in the definition of supportive and subordinate woodland in N.J.A.C. 18:15-1.1" following the first occurrence of "property" and inserted "equal to or"; and in (b), inserted "or wetlands" following "woodland".

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

In (a), substituted the first occurrence of "is" for "shall be"; and in (b), inserted a comma following "wetlands" and the second occurrence of "as".

18:15-2.9 Filing of copies with the Commissioner

A woodland owner subject to the additional conditions set forth in N.J.A.C. 18:15-2.7 shall submit copies of the application and accompanying information to the Commissioner at the time of filing an application for farmland assessment with the assessor.

New Rule, R.1987 d.507, effective December 7, 1987 (operative January 1, 1988).

See: 19 N.J.R. 1538(a), 19 N.J.R. 1640(b), 19 N.J.R. 2304(a).

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Section was "Filing of copies with commissioner". Rewrote the section.

18:15-2.10 Criteria of a woodland management plan

(a) An owner of land subject to the additional conditions set forth in N.J.A.C. 18:15-2.7 shall submit a woodland man-

agement plan prepared in accordance with the following criteria:

1. A cover page for the plan must be provided delineating the following:
  - i. The owner's name and mailing address;
  - ii. The municipality and county where the subject woodland is located;
  - iii. The block(s) and lot(s) of the property that includes the subject woodland;
  - iv. The amount of acreage of the subject woodland;
  - v. The name and address of the approved forester who prepared the plan, if not prepared by the owner;
  - vi. The date the plan was prepared; and
  - vii. The period of time the plan covers, and the starting and end date for the plan's implementation.

(1) For a plan that is approved by the State Forester on or after February 19, 2013, the period of time a woodland management plan covers must not exceed 10 years.

(2) A plan that is approved by the State Forester prior to February 19, 2013, that has a duration of longer than 10 years, but does not exceed 15 years, will remain in effect for its approved duration.

2. A clear and concise statement must be provided describing the owner's overall goals in managing the woodland.
3. A description must be provided of how the property boundaries are or will be marked and delineated.
4. A brief description of past activities that have had an effect on the woodland must be provided in the statement including, but not limited to, wildfire, insect, and disease outbreaks, timber sales, plantings, thinnings, and weedings.
5. A statement describing each defined forest stand must be provided incorporating the following factors:
  - i. The number of acres;
  - ii. The species composition including overstory and understory;
  - iii. The general condition and quality;
  - iv. The structure including age classes, DBH classes, and crown classes;
  - v. The overall site quality;
  - vi. The condition and species composition of advanced regeneration when applicable; and
  - vii. The stocking levels, growth rates, and volumes.

6. A description of the woodland owner's forest management objectives for each forest stand must be provided, together with specification of the activities and practices planned to be carried out; and an explanation of how, within the plan's time frame, the sequential implementation of these activities and practices will integrate and coordinate to meet the stated forest management objectives and to provide for the sustainability of the forest. The plan must include an implementation schedule that, under each forest management objective applicable to the stand, indicate the year or range of years in which the activities and practices will be carried out toward the accomplishment of the objective. These activities and practices must be meaningful and measurable and must be designed to be carried out during the time period that the plan covers. Additionally, the plan must include an aggregated management schedule that summarizes in table format all of the activities and practices to be undertaken during the plan period presented, to the extent feasible, in chronological order. The table shall indicate the stand or stands in or for which the activities and practices are to be conducted, their planned extent, and the year or range of years in which they will be carried out.

7. A statement must be provided of average overall productivity capabilities of the woodland.

8. In addition to the map required pursuant to N.J.A.C. 18:15-2.7, a map of the property must be provided that includes, but is not necessarily limited to, the following:

- i. The owner's name, address, and the date the map was prepared;
- ii. An arrow designating the north direction;
- iii. A scale not smaller than 1:1500 and not larger than 1:200;
- iv. A legend defining the symbols appearing on the map;
- v. The location of property lines;
- vi. An identification of forest stands that are keyed to the activities and practices to be implemented therein;
- vii. A delineation of physical features such as roads, streams, structures, etc.;
- viii. The soil classifications that apply to the property, based on information obtained from the National Resource Conservation Service's Web Soil Survey at: <http://websoilsurvey.sc.egov.usda.gov>. (A separate map can be used for this purpose for the first year of application); and
- ix. A brief description or a map inset of the land for the purpose of identifying the location of the property in relation to the local area.

(b) An owner of land that includes freshwater wetlands or is located in a flood hazard area who wants to utilize a plan to

qualify for an exemption from the permit requirements of the Freshwater Wetlands Protection Act rules at N.J.A.C. 7:7A or for a permit-by-rule under the Flood Hazard Area Control Act rules at N.J.A.C. 7:13, must in addition to meeting the criteria set forth in (a) above, meet the additional plan requirements set forth in N.J.A.C. 7:7A or 7:13, as applicable.

New Rule, R.1987 d.507, effective December 7, 1987 (operative January 1, 1988).

See: 19 N.J.R. 1538(a), 19 N.J.R. 1640(b), 19 N.J.R. 2304(a).

Amended by R.2004 d.62, effective March 1, 2004.

See: 35 N.J.R. 4044(b), 36 N.J.R. 1226(a).

In (a), substituted "incorporating" for "in some combination of" following "forest stand" in 5, inserted "and to provide for the sustainability of the forest" at the end of the first sentence and "and not more than 15 years" at the end of the second sentence in 6.

Amended by R.2013 d.022, effective February 19, 2013.

See: 44 N.J.R. 2289(b), 45 N.J.R. 352(a).

Rewrote (a); and added (b).

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Rewrote the section.

#### Case Notes

Woodland management plan; qualification of woodland for farmland assessment. *Estell Manor City v. Stern*, 14 N.J.Tax 394 (1995).

#### 18:15-2.11 Acknowledgment of receipt

(a) The Commissioner, upon receipt of the application and accompanying information, shall acknowledge such receipt to both the applicant and the assessor on or before September 15 of the pre-tax year.

(b) The acknowledgment by the Commissioner shall also indicate whether the application is sufficient or whether additional information must be submitted by the applicant.

(c) If additional information is requested, the applicant shall submit such information to the Commissioner and the assessor within 14 days of the Commissioner's request.

New Rule, R.1987 d.507, effective December 7, 1987 (operative January 1, 1988).

See: 19 N.J.R. 1538(a), 19 N.J.R. 1640(b), 19 N.J.R. 2304(a).

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Substituted "Commissioner" for "commissioner" three times; and in (c), substituted "Commissioner's" for "commissioner's".

#### 18:15-2.12 Notice of compliance or noncompliance by the Commissioner

(a) On or before October 31 of the pre-tax year, the Commissioner shall notify the assessor in writing of the results of his or her review stating whether the requirements of N.J.S.A. 54:4-23.3(a) have been satisfied by the applicant.

(b) If the Commissioner determines the applicant has not satisfied such requirements, he or she shall indicate the reasons for his or her finding of noncompliance and shall indicate the date of last inspection of the land as prescribed under N.J.A.C. 18:15-2.13.

(c) The assessor shall disapprove the application determined to be in noncompliance and transmit a notice of disallowance to the landowner as provided under N.J.A.C. 18:15-3.6 and N.J.S.A. 54:4-23.13b.

(d) If the Commissioner determines the applicant has satisfied such requirements, he or she shall indicate the date of the last inspection of the land as prescribed under N.J.A.C. 18:15-2.13 and N.J.S.A. 54:4-23.3a(b).

(e) The assessor, after receipt of a notice of compliance, shall approve or disapprove the application in accordance with his or her determination as to whether the property is otherwise qualified for farmland assessment.

(f) If the Commissioner does not give timely notice to the assessor of his or her findings of compliance or noncompliance, the assessor may approve or disapprove the application as in the case of other applications not subject to the additional conditions as noted under N.J.A.C. 18:15-2.7.

New Rule, R.1987 d.507, effective December 7, 1987 (operative January 1, 1988).

See: 19 N.J.R. 1538(a), 19 N.J.R. 1640(b), 19 N.J.R. 2304(a).

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Section was "Notice of compliance or noncompliance by the commissioner". Rewrote the section.

#### 18:15-2.13 On-site inspections

(a) The Commissioner, in addition to providing for review of each application, shall provide for an on-site inspection of the property to determine whether the land is in compliance with the filed woodland management plan.

(b) Such on-site inspection shall be made during one of the first three years following the initial application and submission of accompanying information required by an owner of woodland as set forth in N.J.A.C. 18:15-2.7, and thereafter at least once every three years.

(c) In the event the Commissioner determines the landowner is not in compliance, he or she shall transmit a notice of noncompliance to the assessor within 30 days stating the reasons for the finding of noncompliance.

New Rule, R.1987 d.507, effective December 7, 1987 (operative January 1, 1988).

See: 19 N.J.R. 1538(a), 19 N.J.R. 1640(b), 19 N.J.R. 2304(a).

Amended by R.2013 d.022, effective February 19, 2013.

See: 44 N.J.R. 2289(b), 45 N.J.R. 352(a).

Section was "On-site inspections required to be made by the commissioner". In (a) and (c), substituted "Commissioner" for "commissioner"; and in (c), inserted "or she", and substituted "30" for "five".

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Section was "On-site inspections required to be made by the commissioner". In (a), substituted "providing for review of" for "reviewing" and "provide for" for "make"; and in (c), substituted "landowner" for "woodland", and inserted "the finding of".

**18:15-2.14 (Reserved)**

New Rule, R.1987 d.507, effective December 7, 1987 (operative January 1, 1988).

See: 19 N.J.R. 1538(a), 19 N.J.R. 1640(b), 19 N.J.R. 2304(a).

Repealed by R.2013 d.022, effective February 19, 2013.

See: 44 N.J.R. 2289(b), 45 N.J.R. 352(a).

Section was "Land failing to meet conditions set forth in N.J.A.C. 18:15-2.7".

**18:15-2.15 (Reserved)**

Repealed by R.2004 d.62, effective March 1, 2004.

See: 35 N.J.R. 4044(b), 36 N.J.R. 1226(a).

Section was "Transition rule initiating time for beginning of application or new conditions on woodland owners".

### SUBCHAPTER 3. PROOF TO SUPPORT APPLICATION FOR FARMLAND ASSESSMENT

**18:15-3.1 Two-year period devoted to agricultural or horticultural use required**

(a) Land eligible for farmland assessment in addition to meeting the qualifications provided in N.J.A.C. 18:15-3.2 through 3.5 must have been actively devoted to agricultural or horticultural use as set forth at N.J.A.C. 18:15-6 for at least two successive years immediately preceding the tax year for which such assessment is requested.

1. Example: Where application for farmland assessment is made for tax year 2017, the land must have been actively devoted to agricultural or horticultural use during the entire period of calendar years 2015 and 2016.

As amended, R.1979 d.87, effective March 8, 1979.

See: 11 N.J.R. 100(b), 11 N.J.R. 210(b).

Amended by R.1997 d.405, effective October 6, 1997.

See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).

In (a)1, amended tax year and calendar years.

Amended by R.2004 d.62, effective March 1, 2004.

See: 35 N.J.R. 4044(b), 36 N.J.R. 1226(a).

In (a), amended N.J.A.C. references in the introductory paragraph and amended tax and calendar years in 1.

Amended by R.2013 d.022, effective February 19, 2013.

See: 44 N.J.R. 2289(b), 45 N.J.R. 352(a).

In the introductory paragraph of (a), substituted "set forth at" for "defined in"; and in (a)1, substituted "tax year 2010" for "the tax year 2003" and "calendar years 2008 and 2009" for "the calendar years 2001 and 2002".

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

In (a)1, substituted "2017" for "2010", "2015" for "2008" and "2016" for "2009".

**Statutory References**

As to requisite period of devotion, see N.J.S.A. 54:4-23.6(a).

**Case Notes**

In an action by taxpayers, challenging denial of property tax exemption based on farmland assessment, summary judgment in favor of the town was proper where the farmland assessment plan was not written or filed more than two years prior, as required under N.J.S.A. 54:4-23.6, and where the land in question did not meet the definition of "actively devoted to agricultural or horticultural use for a full tax year," as defined

in N.J.A.C. 18:15-3.1(a). *Alexandria Twp. v. Orban*, 21 N.J. Tax 298, 2004 N.J. Tax LEXIS 8 (Tax Ct. 2004).

Agricultural or horticultural use of land otherwise eligible for farmland assessment must be lawful, that is, a permitted use; forestry operation use of land not permitted under zoning ordinance does not qualify to constitute two calendar year minimum use period for farmland assessment eligibility. *Clearview Estates, Inc. v. Boro. of Mountain Lakes*, 188 N.J. Super. 99, 456 A.2d 111 (App.Div.1982).

Land qualified for farmland assessment for two years preceding tax year. *Mt. Hope Min. Co. v. Rockaway Tp.*, 8 N.J. Tax 570 (1986).

Taxpayer was entitled to farmland assessment on forestry land despite violation of tree removal ordinance. *Mt. Hope Min. Co. v. Rockaway Tp.*, 8 N.J. Tax 570 (1986).

**18:15-3.2 Area of land devoted to agricultural or horticultural use**

(a) Land actively devoted to agricultural or horticultural use, including fallow land and land in rotation, in order to be eligible for farmland assessment, must have a minimum area of five acres.

(b) In determining the area of such land, all the land under barns, sheds, seasonal farm markets selling predominantly agricultural products, seasonal agricultural labor housing, silos, cribs, greenhouses and like structures, lakes, dams, ponds, streams, irrigation ditches and like facilities is included. However, land under the farmhouse, and such additional land as may be actually used in connection with the farmhouse, including, but not limited to, land used for lawns, flower gardens, shrubs, swimming pools, tennis courts, and for like purposes, is excluded in determining the total area.

(c) Where separate parcels of land in agricultural or horticultural use under a single ownership are located in the same taxing district, compliance with the five-acre minimum area eligibility requirement is met if the separate parcels are contiguous and the aggregate eligible area thereof is at least five acres. Land under single ownership, separated by a public right of way, is considered to be contiguous even if the parcels are included in a farm management unit.

(d) Where contiguous land in agricultural or horticultural use in one ownership is located in more than one taxing district, compliance with the five-acre minimum area requirement is determined on the basis of the total eligible area of such land and not the area which is located in any particular taxing district.

(e) Where separate, noncontiguous parcels of land in agricultural or horticultural use, in a single ownership, are located in the same taxing district, a separate application for farmland assessment must be made with respect to each parcel. The area of the separate parcels may not be aggregated for the purpose of meeting the five-acre eligibility requirement even if the parcels are included in a farm management unit.

Amended by R.1997 d.405, effective October 6, 1997.

See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).

In (b), inserted "sheds ... seasonal agricultural labor housing,".

Amended by R.2013 d.022, effective February 19, 2013.

See: 44 N.J.R. 2289(b), 45 N.J.R. 352(a).

In (a), inserted "including fallow land and land in rotation,".

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

In (b), substituted "However," for "but" and inserted a comma following "courts"; rewrote (c); in (d), substituted "any" for "the"; and in (e), inserted "even if the parcels are included in a farm management unit".

#### Statutory References

As to requisite area of land, see N.J.S.A. 54:4-23.6(b).

As to areas of land to be included in computation, see N.J.S.A. 54:4-11.

As to treatment of contiguous land in more than one taxing district, see N.J.S.A. 54:4-18.

#### Case Notes

Roll-back taxes are not triggered until the land is applied to a more intense use than that for which it received a farmland assessment; determination of ineligibility for farmland assessment. *Jackson Tp. v. Paolin*, 3 N.J.Tax 39, 181 N.J.Super. 293, 437 A.2d 344 (Tax Ct.1981).

Where two tracts of land were neither contiguous nor appurtenant to the tract entitled to farmland assessment, the two tracts were not reasonably required for the purpose of maintaining the farmland tract and agricultural use, and were therefore not entitled to farmland assessment. *Basa River Tp. v. Hogwallow, Inc.*, 1 N.J.Tax 612 (Tax Ct.1980).

#### 18:15-3.3 Filing date

(a) The owner of land actively devoted to agricultural or horticultural use must submit the required application for farmland assessment, Forms FA-1 and FA-1 G.S., to the assessor of the taxing district where such land is situated, on or before August 1 of the pre-tax year in order to be eligible for farmland assessment.

(b) Once an application is filed with the assessor for the tax year, it may not be withdrawn by the applicant after October 1 of the pre-tax year. (See N.J.A.C. 18:15-8.2, Change of use, pertaining to the power of the assessor and the county board of taxation to deny or nullify an application where a change in use occurs between August 1 and December 31 of the pre-tax year.)

1. If a change in use of the land occurs between August 1 and December 31 of the pre-tax year, either the assessor or the county board of taxation shall deny or nullify such application and, after examination and inquiry, shall determine the full and fair value of said land under the valuation standard applicable to other land in the taxing district and shall assess the same, according to such value.

i. If, despite such change of use, the land is valued, assessed, and taxed under farmland assessment in the ensuing year, the assessor shall enter an added assessment against such land, in the "Added Assessment List" for the particular year in the manner prescribed in N.J.S.A. 54:4-63.1 et seq. The amount of the added assessment must be in an amount equal to the difference, if any, between the assessment imposed under the Act and the assessment that would have been imposed had the

land been valued and assessed as other land in the taxing district.

ii. The enforcement and collection of additional taxes resulting from any additional assessments are to be imposed as provided by N.J.S.A. 54:4-63.1 et seq. The additional assessment imposed pursuant to N.J.S.A. 54:4-23.13 does not affect the roll-back taxes, if any, under N.J.S.A. 54:4-23.8.

(c) If the application is filed by delivery through the mail or a commercial courier or messenger service, compliance with the time limit for filing is met if there is satisfactory evidence that the application was committed for delivery to the United States Postal Service or to the courier or messenger service within the time limit allowed for filing.

Amended by R.1983 d.574, effective December 19, 1983.

See: 15 N.J.R. 1459(b), 15 N.J.R. 2175(b).

Added (c).

Amended by R.2013 d.022, effective February 19, 2013.

See: 44 N.J.R. 2289(b), 45 N.J.R. 352(a).

Rewrote the introductory paragraph of (b); added (b)1; and deleted the footnote following (c).

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

In (a), inserted "Forms FA-1 and FA-1 G.S.," and substituted the second occurrence of "farmland" for "such"; rewrote (b)1i and (b)1ii; and in (c), substituted "is met" for "shall be established" and inserted the second occurrence of "limit".

#### Statutory References

As to time of application, see N.J.S.A. 54:4-23.13.

#### Case Notes

Notice to tax assessor of state's acquisition of property was effective upon receipt by township clerk. *State by Com'r of Transp. v. Pohatcong Tp.*, 9 N.J.Tax 528 (1988).

#### 18:15-3.4 Representation as to use of land

(a) The application for farmland assessment must contain information to confirm that the land will continue to be actively devoted to agricultural or horticultural use from the date of the application to the end of the tax year for which application for farmland assessment is made.

(b) The assessor's office must make an on-site inspection of the land at least once every three years.

1. The required three year inspection cycle is a minimum requirement. In any year where the assessor is not assured that land is actively devoted to an agricultural or horticultural use, he or she shall perform as many on-site inspections as reasonably necessary to establish the eligibility of the land for the purpose of approving or disapproving the application for farmland assessment.

2. The municipality may impose a fee for an on-site inspection of not more than \$25.00, except that inspection of contiguous and non-contiguous parcels of land under the same ownership are subject to a single \$25.00 fee.

(c) A descriptive narrative for farm management units under seven acres must be included with the application for farmland assessment to assist the assessor in conducting on-site inspections. See N.J.A.C. 18:15-2.2(f).

Amended by R.1997 d.405, effective October 6, 1997.  
See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).

Added (b).

Amended by R.2013 d.022, effective February 19, 2013.  
See: 44 N.J.R. 2289(b), 45 N.J.R. 352(a).

In the introductory paragraph of (b), substituted "be subject to" for "include", and inserted "by the assessor's office."

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Rewrote the section.

### 18:15-3.5 Additional proof may be required by the assessor

(a) Each assessor may at any time require the submission of such additional proof as necessary to establish the right of an applicant to farmland assessment.

(b) The applicant, on request of the assessor, shall furnish proof of all the prerequisites necessary to show the land is eligible for farmland assessment, such as:

1. Unified title or single ownership;
2. Description;
3. Area;
4. Agricultural and horticultural uses;
5. Substantiated evidence of sufficient gross sales of agricultural or horticultural products to meet the minimum requirements for qualification;
6. Fees received for boarding, rehabilitating, or training livestock; and
7. Proof of enrollment and payments in an approved soil conservation program from an agency of the Federal government.

(c) Each owner shall immediately inform the assessor when land being assessed under the Act is applied to a use other than agricultural or horticultural.

Amended by R.1997 d.405, effective October 6, 1997.

See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).

Added (b)6.

Amended by R.2013 d.022, effective February 19, 2013.

See: 44 N.J.R. 2289(b), 45 N.J.R. 352(a).

In (a), substituted "deemed" for "he deems"; in the introductory paragraph of (b), substituted "shall" for "must"; rewrote (b)1, (b)4 and (b)5; in (b)6, substituted "; and" for a period at the end; and added (b)7.

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

In (a), deleted "deemed" preceding "necessary"; and in (b)5, inserted "sufficient", and deleted "sufficient" following "products".

#### Case Notes

Roll-back taxes are not triggered until the land is applied to a more intense use than that for which it received a farmland assessment; determination of ineligibility for farmland assessment. *Jackson Tp. v. Paolin*, 3 N.J.Tax 39, 181 N.J.Super. 293, 437 A.2d 344 (Tax Ct.1981).

### 18:15-3.6 Notice of disallowance of claim

(a) Where an application for farmland assessment has been filed by the landowner with the assessor of the taxing district in which the land is located, and such application is disallowed, the assessor shall on or before November 1 of the pre-tax year notify the landowner by regular mail of the disallowance of his or her application for farmland assessment.

(b) The notice of disallowance must set forth the reason or reasons therefor, together with a statement notifying the landowner of his or her right to appeal such determination to the county board of taxation, or file a complaint directly with the State Tax Court, if the assessed valuation of the property subject to the appeal exceeds \$1,000,000, on or before April 1, or 45 days from the date the bulk mailing of notification of assessment is completed in the taxing district, whichever is later. However, in a taxing district where a municipal-wide revaluation or municipal-wide reassessment has been implemented, a taxpayer or a taxing district may appeal on or before May 1 to the county board of taxation by filing a petition of appeal with the county board of taxation. If the assessed valuation of the property subject to the appeal exceeds \$1,000,000, a complaint may be filed directly with the State Tax Court.

(c) Any appeal of a denial of farmland assessment is governed by procedures provided for appeals in N.J.S.A. 54:3-21 and/or 54:51A-1 et seq.

Amended by R.1997 d.405, effective October 6, 1997.

See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).

In (b), changed appeal date from August 15 to April 1; and added (c).

Amended by R.2013 d.022, effective February 19, 2013.

See: 44 N.J.R. 2289(b), 45 N.J.R. 352(a).

Rewrote (b).

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

In (a), substituted "farmland assessment" for "valuation of land under the Act" and inserted "or her"; in (b), substituted "must" for "shall" and inserted "State"; and in (c), substituted "is" for "shall be" and inserted "and/or 54:51A-1 et seq.".

#### Statutory References

N.J.S.A. 54:4-23.13B.

## SUBCHAPTER 4. VALUE OF LAND QUALIFYING FOR FARMLAND ASSESSMENT

### 18:15-4.1 Value defined

The term "value," when applied to land qualifying for farmland assessment, means the value such land has for agricultural or horticultural use, as determined in accordance with the provisions of the Act.

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Substituted "value," for "value".

**Statutory References**

As to "value" of land, see N.J.S.A. 54:4-23.2.

**18:15-4.2 Indicia of value to be used**

In valuing land which qualifies for farmland assessment, only those indicia of value which such land has for agricultural or horticultural uses are considered by the assessor and not the prospective value which such land has for sub-division or other non-agricultural or horticultural purposes.

**Statutory References**

As to the indicia of value to be used, see N.J.S.A. 54:4-23.7.

**18:15-4.3 Usable evidence**

(a) The assessor, in addition to the use of his or her personal knowledge, judgment, and experience in determining the value of land in agricultural or horticultural use, shall also consider all the available evidence regarding the agricultural and horticultural capabilities of such land derived from soil survey data at:

1. Rutgers—The State University;
2. The National Cooperative Soil Survey; and
3. The recommendations as to the value of such land in the area as made by any county or Statewide committee established to give advice concerning the administration of the Act, such as the State Farmland Evaluation Committee.

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Rewrote the introductory paragraph of (a) and (a)3.

**Statutory References**

As to the criteria to be used in valuing land, see N.J.S.A. 54:4-23.7.

**18:15-4.4 Farmhouse land not agricultural use**

Land on which a farmhouse is located, together with such land area as may be devoted to lawns, flower gardens, shrubs, swimming pools, tennis courts, and like purposes related to the use and enjoyment of the farmhouse, are not considered to be in agricultural or horticultural use and, therefore, are valued, assessed, and taxed by the same standards, methods, and procedures as other taxable land in the taxing district.

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Inserted a comma following "courts", "assessed", and "methods", and substituted "considered" for "deemed" and " , therefore," for "therefor".

**Statutory References**

As to exclusion of farmhouse land, see N.J.S.A. 54:4-23.11.

**Case Notes**

Taxpayer's log cabin and one-half acre lot found not actively devoted to agricultural or horticultural use as required for preferential tax treatment as farmland. *Warselle Land Corp. v. Tewksbury Tp.*, 3 N.J.Tax 565 (Tax Ct. 1981).

**18:15-4.5 Structures**

(a) Structures located on land in agricultural or horticultural use such as a farmhouse or any other structure used in connection therewith are valued, assessed, and taxed by the same standards, methods, and procedures as other taxable structures in the taxing district. However, the term "structure" does not include a single-use agricultural or horticultural facility, as is commonly used for either storage or growing of crops and which is designed or constructed to be readily dismantled and can be marketed separately from the land and the building, such as readily dismantled greenhouses, hoop houses, polyhouses, grain bins, silos, or manure handling equipment or impoundments; or a three-sided turn-out shed used to shelter livestock provided there is no permanent foundation or floor, the shed is 250-square feet or less in area, and has no water, gas, oil, sewer, or electric connections; or garden-type utility shed that is 200-square feet or less, is 10 feet or less in height, has no water, gas, oil, sewer, or electric connections, has a floor system that is tied to the walls of the structure, and does not have a permanent foundation or floor.

(b) In the valuation and assessment of farm structures, the assessor shall consider those attributes of value which such structures have, utilizing the same standard of valuation applicable to all other real property. Assessors should utilize the same methodologies and considerations for valuing farm structures as they would other improvements within the taxing district, as appropriate for the nature of the structures at issue. Assessors shall take into consideration the following criteria for the establishment of value:

1. **Cost less depreciation:** The cost approach is based on the premise that the cost new of a structure is the highest possible value. Costs may include, in addition to materials and labor, architect, engineering and permit fees, surveys, and site improvement costs. From this highest possible value is deducted accrued depreciation—both physical deterioration and functional and economic obsolescence;

2. **Alteration to existing structures:** The cost of alterations or modernization to an existing farm structure does not necessarily add to building value. Where major alterations or modernization definitely increases or adds to the value of the farm structure, the percentage appreciation is determined by estimating the probable increase in sales value or the increase in remaining economic life of the building;

3. **Specialized nature of buildings use:** Farm structures are designed and built for specific production uses within agriculture. Knowledge of building types, construction quality, useful life, and utilization is important in determining a value. For example, machinery sheds or livestock barns are generally of post frame construction, may be open on one side, and have a gravel or stone floor. Comparisons should be made with like structures, that is, a three sided livestock shed should be compared with other three sided livestock sheds;

4. **Depreciation:** The physical condition of agricultural buildings should be compared to the near-perfect condition of similar new buildings, based on detailed inspection of all components. A depreciation schedule for farm structures shall be used in the assessment of the physical condition of a building;

5. **Obsolescence:** This is loss in value due to internal or external deficiencies.

i. **Functional obsolescence** is a loss in value due to the instability of the structure to perform adequately the function it is used for. Functional obsolescence would result if a building has limited contribution to a farming operation by seeing technologically obsolete, such as a dairy barn with 30 tie-stall stanchions when the technological standard is for larger free-stall structures with milking parlors, or being totally unusable for the purpose for which it was built;

ii. **Economic obsolescence** of a structure with a specialized agricultural use is a loss in value as a result of impairment in utility and desirability caused by factors outside the property's boundaries. For example, commercial businesses dominating a former agricultural area leaves the remaining land under farm use uneconomical;

6. **Labor and materials:** Actual costs for labor and materials shall be considered in arriving at the value of a building. Most agricultural buildings constructed on farms are built using specialized farm building contractors or agricultural labor. For work done by farm employees, costs should be decreased 15 to 30 percent to reflect the proper wage rate and lower supervisory costs; and

7. **Municipal zoning:** Ordinances or codes may limit the use of a farm structure to agricultural purposes. When valuing a farm building, consideration shall be given to the permitted uses of the structure. The proximity of a farm structure to a farm dwelling shall also be taken into account since the valuation of both types of buildings may be adversely impacted.

(c) Examples of how to assess, appraise, and value farm structures using the methods described in (b) above can be found in the Real Property Appraisal Manual for New Jersey Assessors, available on the Division of Taxation's website at <http://www.state.nj.us/treasury/taxation/lpt/referencematerials.shtml>.

Amended by R.1979 d.262, effective July 5, 1979.

See: 11 N.J.R. 304(b), 11 N.J.R. 415(b).

Amended by R.1997 d.403, effective October 6, 1997.

See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).

Added (b).

Amended by R.2013 d.022, effective February 19, 2013.

See: 44 N.J.R. 2289(b), 45 N.J.R. 352(a).

Rewrote (a).

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

In (a), substituted "are" for "is", ". However," for "; provided, however, that", and the first occurrence of "does" for "shall", and inserted "the shed" and the second occurrence of "or floor"; rewrote the introductory paragraph of (b); and added (c).

#### Statutory References

As to valuation, taxation and assessment of structures, see N.J.S.A. 54:4-23.12 as amended by P.L. 1970, c.70.

18:15-4.6 through 18:15-4.8 (Reserved)

### SUBCHAPTER 5. TAXABLE VALUE OR ASSESSED VALUE OF FARMLAND

#### 18:15-5.1 Taxable value defined

The taxable or assessed value of land qualifying for farmland assessment is its value in agricultural or horticultural use as determined by the Farmland Evaluation Committee or the assessor's alternate standards as approved by the Director of the Division of Taxation pursuant to N.J.A.C. 18:15-14.6.

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Rewrote the section.

#### 18:15-5.2 Land not qualifying for farmland assessment

Land which does not qualify for farmland assessment is valued and assessed in the same manner as other real property in the taxing district.

#### 18:15-5.3 Recordation of taxable value

(a) The taxable value of land which qualifies for farmland assessment is to be recorded on the assessor's tax list and duplicate in the same manner as that of other taxable lands in the taxing district.

(b) Where a portion of a parcel of land is assessed under the Act and another portion of said parcel is assessed in the same manner as other general real property, each portion is to be shown on the tax list and duplicate on a separate line.

#### Statutory References

As to tax and duplicate, see N.J.S.A. 54:4-23.19.

#### Case Notes

Under N.J.S.A. 54:4-23.16 and N.J.A.C. 18:15-5.3(b), a conveyance is not required in order to effect a split off or separation of non-farmed land from farmland for purposes of tax assessment. *Township of Wantage v. Rivlin Corp.*, 23 N.J. Tax 441, 2007 N.J. Tax LEXIS 6 (Tax Ct. 2007).

18:15-5.4 through 18:15-5.6 (Reserved)

### SUBCHAPTER 6. ACTIVELY DEVOTED TO AGRICULTURAL USE OR HORTICULTURAL USE

#### 18:15-6.1 Actively devoted to agricultural or horticultural use defined

(a) Land, five acres in area, is considered to be actively devoted to agricultural or horticultural use when it is used for



any of the purposes described in the Act and as set forth in N.J.A.C. 18:15-1.1 and 6.2 and:

1. The amount of gross sales of agricultural or horticultural products produced, any payments received under a soil conservation program, fees received for breeding, raising, or grazing livestock, income imputed to land used for grazing in the amounts determined by the State Farmland Evaluation Committee, and fees received for boarding, rehabilitating, or training livestock where the land under the boarding, rehabilitating, or training facilities is contiguous to land otherwise qualified for farmland assessment, have averaged at least \$1,000 per year on the first five acres, \$5.00 per acre per year on any additional acres of farmland other than woodland and wetland. Woodlands under an approved woodland management plan and wetlands, must have averaged \$500.00 per year for the first five acres and \$0.50 per acre per year on any additional acres constituting woodland and wetland during the two-year period immediately preceding the tax year in issue; or

2. There is clear evidence of anticipated yearly gross sales, payments, and fees of at least \$1,000 per year on the first five acres, except for woodlands under a woodland management plan, for which there must be clear evidence of at least \$500.00 per year for the first five acres, \$5.00 per acre per year on any additional acres of farmland other than woodland and wetland and \$0.50 per acre per year on any additional acres of woodland and wetland within a reasonable period of time.

(b) The gross sales, fees, payments, or income imputed to grazing land or payments may be from one or a combination of sources included in (a) above, except fees for boarding, rehabilitating, or training livestock must only be included where such use occurs on land contiguous to land under the same ownership, which otherwise qualifies for farmland assessment.

1. Examples are as follows:

i. Example 1: On a 10-acre parcel of land, six acres are devoted to growing crops and generate annual gross sales of \$1,150. The remaining four acres are used for boarding horses and generate annual boarding fees of \$8,500. Since the land used for boarding horses is contiguous to land five acres or more otherwise qualifying for farmland assessment, the fees from boarding may be included to meet the minimum gross income requirements and qualify the entire 10-acre parcel.

ii. Example 2: On a 10-acre parcel of land, 3.5 acres are devoted to growing crops and generate annual gross sales of \$950.00. The remaining 6.5 acres are used for boarding horses and generate annual boarding fees of \$10,500. None of the 6.5 acres is used for grazing horses. The land contiguous to the land used for boarding horses does not otherwise qualify for farmland assessment, both because it is not at least five acres in area

and because it does not meet the minimum \$1,000 income requirement for the first five acres. Therefore, the fees from boarding may not be included to meet the minimum gross income requirements, and the entire 10-acre parcel is not eligible for farmland assessment.

iii. Example 3: A 10-acre parcel of land is managed under a soil conservation program of the United States Department of Agriculture and receives an annual payment of \$1,250. Since the payment meets the income requirement of \$1,025 (\$1,000 for the first five acres plus \$5.00 for each acre above five), the entire 10 acres are eligible for farmland assessment.

iv. Example 4: On an 11.5-acre parcel of land, one-half acre is used with the house, and three acres are devoted to boarding and training horses, producing fees of \$3,200. The remaining eight acres are utilized for grazing the boarded horses at an imputed value of \$145.00 per acre. Income imputed to grazing is determined to be \$1,160. Since the eight acres used for grazing has an imputed value of at least \$1,000, they are eligible for farmland assessment. The three-acre portion used for boarding and training is also eligible because it is contiguous to land that otherwise qualifies for farmland assessment. The one-half acre under the house will not qualify for farmland assessment.

v. Example 5: Three horses and a pony are kept by an owner on his or her land for pleasure riding. The animals pasture on 14 acres, which have an imputed grazing value of \$1,988. The imputed grazing value in this county is \$142.00 per acre. Although grazing in and of itself is a qualified agricultural activity and the imputed grazing value exceeds the income requirements of \$1,045 for qualification, the land would be ineligible for farmland assessment. The livestock are not raised for sale but are rather kept for personal use, and the livestock do not produce products for sale.

vi. Example 6: On a 10-acre parcel of land, one acre is used for residential dwelling, three acres are devoted to hay production, four acres are fenced pasture for boarded horses, one-half acre is for the boarding facility, and 1.5 acres are appurtenant woodland. One hundred twenty-five bales of hay with a value of \$4.00 per bale generating \$500.00 in value are produced annually and fed to the boarded horses. Income imputed to land for grazing of \$144.00 per acre times four acres equals \$576.00. As seven acres of land producing \$1,076 in income is adjacent to the boarding facility, nine acres qualifies for farmland assessment.

vii. Example 7: On a seven-acre parcel, five acres are used by a farmer who plants soybeans in June for harvest in November for sale under contract the following July. Two acres are in permanent pasture for erosion control. The landowner needs to verify to the municipal assessor clear evidence of anticipated sales. The landowner upon request from the assessor provides a signed statement

that the anticipated yield will be 30 bushels per acre at a contract price of \$7.00 per bushel with a total value of production of \$1,050 on the five acres. Since the land qualified for farmland assessment the two previous years and a minimum of five acres was in agricultural use with clear evidence of anticipated sales in excess of the \$1,010 needed to qualify, the seven acres will meet the eligibility criteria for farmland assessment.

viii. Example 8: On a six-acre parcel, one-half acre is used as a residence, five acres are fenced for pasturing three boarded horses and one-half acre is used as equine facilities. Upon the municipal assessor's request for proof of agricultural or horticultural production for sale, the landowner provides the names of the owners of the horses, as well as the \$800.00 per horse boarding fee and uses the imputed grazing values of \$143.00 per acre as provided in the Report of the State Farmland Evaluation Committee. Since a minimum of five acres of pasture being utilized by three boarded horses has an imputed grazing value of \$715.00, the agricultural income criteria for farmland assessment has not been met on those five acres. The income from boarding horses cannot be counted since it is not contiguous to land which otherwise qualifies for farmland assessment. The entire parcel is ineligible for farmland assessment.

ix. Example 9: A 20-acre parcel is enrolled in the United States Department of Agriculture's Conservation Reserve Program (CRP) and receives an annual rental from the Farm Service Agency of \$1,150 per year. A requirement of the program is maintaining the land through annual mowing. The landowner in completing the FA-1 application, which shows the cropland as pastured, but land enrolled in a Federal government program must be categorized as cropland harvested. This 20-acre parcel meets the acreage and sales criteria of \$1,075 for farmland assessment.

x. Example 10: A 15-acre parcel is primarily used to grow evergreens for sale as Christmas trees. Eight acres have been planted with evergreens in various stages of growth and harvest. An additional three acres are in cover crop for anticipated planting in the future. The balance of the parcel is appurtenant woodland. The grower practices clear-cutting rotation of Christmas trees as opposed to inter-planting trees after harvest. Using seven-by-seven foot spacing, 888 trees will fit on an acre of land. Harvest will take place starting the seventh year after planting. Proper production practices during the years leading up to harvest will provide clear evidence of anticipated sales. The requirement of a minimum of \$1,000 in sales is cumulative and needs to be a minimum of \$10,000 achieved for the seventh through 10th years to meet the gross income requirement for farmland assessment.

xi. Example 11: Three goats, 20 chickens, and a horse are being kept on a six-acre parcel. One-half acre

is used with the residence. The parcel is fenced with five and one-half acres being reported as permanent pasture on the application for farmland assessment. Sales were not documented in the previous year. The parcel does not qualify for farmland assessment due to an insufficient number of livestock and poultry used for agricultural production and the lack of proof of sales of agricultural commodities produced from the land.

(c) The minimum gross sales for active devotion is calculated as \$1,000 (\$500.00 for woodlands under an approved woodland management plan) for the first five acres and \$5.00 for each additional acre of agricultural/horticulture and \$0.50 for each additional acre of woodlands/wetlands. Where a farm consists of more than five acres, the minimum income for active devotion may be produced from the whole property. A specific five-acre section of the farm does not need to be designated to produce \$1,000 (\$500.00 for woodlands under an approved woodland management plan) for the first five acres and \$5.00 for each additional acre of agricultural/horticulture and \$0.50 for each additional acre of woodlands/wetlands. Instead, the minimum income as calculated from the acreage and nature of those acres must come from the property as a whole without regard to which acre produces what amount of income, as long as the total produced on the property exceeds the minimum as calculated. However, appurtenant woodlands and wetlands cannot produce income to meet the gross sales requirement of active devotion.

#### Examples:

Example 1: On a 15-acre parcel, with one acre reserved for the homestead, six acres are devoted to growing tomatoes and generate annual gross sales of \$700.00; six acres are devoted to growing hay and generate annual gross sales of \$500.00; one acre is left fallow; and the remaining acre is appurtenant woodland. Since the total gross sales for the property equal \$1,200, the farm exceeds the gross sales requirements for active devotion of \$1,040.50 despite not having any particular five acres produce \$1,000.

Example 2: On a 10-acre parcel of land, two acres are used for boarding horses which produce fees of \$3,200 and the remaining eight acres are utilized for grazing the boarded horses at an imputed grazing value of \$145.00 per acre. Income imputed to grazing is determined to be \$1,160. Since the eight acres used for grazing have an imputed value for such use that exceeds the gross sales requirement for active devotion of \$1,040 for those eight acres, it would qualify for farmland assessment, despite the income imputed to grazing on five acres being less than \$1,000. The two-acre portion used for boarding and training is also eligible because it is contiguous to land that otherwise qualifies for farmland assessment.

Example 3: On an eight-acre parcel, one-half acre is used as a residence, seven acres are fenced for pasturing three boarded horses, and one-half acre is used as equine facilities.

As proof of agricultural or horticultural production for sale, the landowner provides the names of the owners of the horses as well as the \$800.00 per horse boarding fee and uses the imputed grazing values of \$142.00 per acre as provided in the report of the State Farmland Evaluation Committee. Since seven acres of pasture being utilized by three boarded horses has an imputed grazing value of \$994.00, the agricultural income criteria for farmland assessment has not been met on those seven acres, since the minimum gross sales for active devotion on seven acres would be \$1,010. The income from boarding the horses cannot be counted since it is not contiguous to land which otherwise qualifies for farmland assessment. The entire parcel is ineligible for farmland assessment.

(d) Where a parcel is of mixed-use with both non-appurtenant woodlands under an approved woodland management plan and land in other agricultural/horticultural use, the gross sales minimum for the first five acres would be as follows:

1. A mixed-use property that has at least five acres in agricultural or horticultural use which are not non-appurtenant woodlands under an approved woodland management plan is required to produce a minimum of \$1,000 per year for the first five acres.

2. A mixed-use property that has less than five acres in agricultural or horticultural use which are not non-appurtenant woodlands under an approved woodland management plan is required to produce a minimum of \$500.00 per year for the first five acres.

3. Examples are as follows:

i. Example 1: On a 16-acre parcel of land, one acre is used with the residence, six acres are devoted to the raising of a flock of sheep, and nine acres are woodlands under an approved woodland management plan. Because there are six acres devoted to a non-woodlands agricultural use, the property exceeds the trigger of five such acres so as to have a gross sales minimum of \$1,000 for the first five acres. The minimum gross sales for the property per year would be \$1,009.50 (\$1,000 for the first five acres devoted to the flock of sheep, \$5.00 for the additional acre used for the sheep, plus nine x \$0.50 for the acres under an approved woodland management plan).

ii. Example 2: On a 20.5-acre parcel of land, one-half acre is used as a residence, three acres are devoted to growing tomatoes, and 17 acres are woodlands under an approved woodland management plan. Because the property only has three acres devoted to a non-woodlands agricultural or horticultural use, the property does not trigger the \$1,000 gross sales minimum for the first five acres, and remains at \$500.00. The minimum gross sales for the property per year would be \$521.00 (\$500.00 for the first five acres of woodlands, three x \$5.00 for the acres devoted to tomatoes, plus 12 x \$0.50 for the additional woodland acres).

iii. Example 3: On an eight-acre parcel of land, one acre is used with the residence, four acres are devoted to growing ornamental plants, and three acres are woodlands under an approved woodland management plan. Since the property does not have five acres devoted to non-woodlands agricultural/horticultural use, it does not trigger the \$1,000 income threshold. The gross sales minimum for the first five acres should be \$500.00, despite there being more acres devoted to growing ornamental plants than to non-appurtenant woodlands. Since there are neither five acres devoted to non-woodlands agriculture nor five acres devoted to non-appurtenant woodlands, the first five acres necessary to qualify for farmland assessment must be a composite of the two. It is recommended to include all woodland acres under an approved woodland management plan as part of the first five acres needed for qualification. Thus, the minimum gross sales per year for the property would be \$510.00 (\$500.00 for the composite first five acres: that is, three acres of woodlands and two acres of ornamental plants, plus two x \$5.00 for the two additional acres of ornamental plants.)

(e) Where the income requirements for farmland assessment are not met due to an injury, illness, or death of the person responsible for performing the income-producing activities necessary to meet the income eligibility requirements, the assessor shall, upon request by the owner of the land, exempt the owner from the income requirements.

1. In the case of injury or illness, the owner's written request shall be verified by a certification of a physician which must include a statement that the person was physically incapacitated and the period of time of the incapacitation.

2. In the case of death, the owner's or representative's written request shall be verified by a certified copy of the death certificate.

3. The assessor may only grant an exception once for a particular illness, injury, or death.

4. Application for exception to the gross sales requirement under the Act pursuant to this subsection may be made only upon completion of the forms prescribed by the Director, identified as Form FA-X. Copies of the form may be obtained, upon request, from the assessor of each taxing district who is required to provide said form for use by applicants.

5. Form FA-X is to be filed by the owner of the land by August 1 of the pre-tax year. In the case of multiple ownerships, except corporate co-owners, one of the owners may sign on behalf of the other co-owners, and such signer will be presumed to have authority to sign on behalf of the other owners. In the case of corporate owner or owners, the full name of the corporation must be provided on the application and accompanied by the signature and title of the

corporate officer authorized to sign the application on its behalf.

(f) Land used for biomass, solar, or wind energy generation must be considered land in agricultural or horticultural use and may be eligible for valuation, assessment, and taxation pursuant to N.J.S.A. 54:4-23.1 et seq., provided that:

1. The property where the energy generation facility is located is part of an operating farm that will continue to operate as a farm in the tax year for which farmland assessment is being applied;

2. The energy generation facility constructed, installed, and operated on the land under the facility for which farmland assessment is sought, has received all approvals that may be required by law, where the interconnection is legally permissible, and where the energy generation facility and underlying farmland meet all other requisites for farmland assessment;

3. In the prior tax year, the acreage used for the biomass, solar, or wind energy generation facilities, structures, and equipment was valued, assessed, and taxed as land in agricultural or horticultural use;

4. The power or heat generated by the biomass, solar, or wind energy generation facilities, structures, and equipment is used to provide, either directly or indirectly but not necessarily exclusively, power or heat to the farm or agricultural or horticultural operations supporting the viability of the farm;

5. For property on which biomass, solar, or wind energy generation facilities, structures, and equipment have or will be constructed and used, the owner or operator shall have a conservation plan approved by the soil conservation district to account for the aesthetic, impervious coverage, and environmental impacts of the construction, installation, and operation of the biomass, solar, or wind energy generation facilities, structures, and equipment, including, but not necessarily limited to, water recapture and filtration;

6. Where solar energy generation facilities, structures, and equipment are installed, the property under the solar panels is used to the greatest extent practicable for the farming of shade crops or other plants capable of being grown under such conditions, or for pasture for grazing;

7. The amount of acreage devoted to energy generation facilities meets, but does not exceed, a ratio of one-to-five acres or portion thereof. In other words, for each "unit" of land devoted to energy generation, there are at least another five "units" of land devoted to agricultural and/or horticultural operations. The following table illustrates the ratio in terms of sample acreages:

Total Acres	*Maximum acres in Solar/Wind/Biomass	Minimum acres in Agriculture/Horticulture
5.25	0.25	5.00
5.60	0.60	5.00
6.00	1.00	5.00
7.00	1.19	5.81
8.00	1.36	6.64
9.00	1.53	7.47
10.00	1.70	8.30
15.00	2.55	12.45
25.00	4.25	20.75
50.00	8.50	41.50
59.00	10.00	49.00
60.00	10.00	50.00
100.00	10.00	90.00

\*Ratio to calculate assessments: 1 part renewable energy to 5 parts of land devoted to agricultural or horticultural operations = 1+6 or .167 rounded to .17.

Must have greater than 5 acres to invest in renewable energy sources

8. Biomass, solar, or wind energy generation facilities, structures, and equipment are constructed or installed on no more than 10 acres of the farmland for which the owner of the property is applying for valuation, assessment, and taxation pursuant to the Act, and if power is being generated, no more than two megawatts of power are generated on the 10 acres or less:

i. Example 1: A landowner devotes 60 acres to agricultural or horticultural production that qualifies for farmland assessment. He converts 10 of those acres for use as a solar energy facility, which generates no more than two megawatts of power. The landowner is entitled to have all 60 acres receive farmland assessment.

ii. Example 2: A landowner devotes 120 acres to agricultural or horticultural production which qualifies for farmland assessment. He or she converts 20 of those acres for use as a solar energy facility. Because the landowner is entitled to have only 10 of the acres used for a solar energy facility under farmland assessment, he or she no longer qualifies for this assessment on the additional 10 acres that have been converted to the solar energy facility, and these 10 acres are subject to roll-back taxes. The landowner, however, continues to qualify for farmland assessment on the remaining 110 acres.

iii. Example 3: A landowner devotes 60 acres to agricultural or horticultural production that qualifies for farmland assessment. He converts 10 of those acres for use as a solar energy facility that generates three megawatts of power. None of the 10 acres qualifies for farmland assessment. Only the remaining 50 acres that is in agricultural or horticultural production qualifies for

farmland assessment because the two megawatt power limit is exceeded. Roll-back is applied to the 10 acres;

9. For biomass energy generation, the owner of the property has obtained approval from the New Jersey Department of Agriculture pursuant to N.J.S.A. 4:1C-32.5;

10. If the energy generation facility is located in the Pinelands region, the construction, installation, and operation of the facility comply with the Comprehensive Management Plan;

11. If the land is permanently preserved under the State Farmland Preservation Program, the landowner must provide documentation that the project was approved by the State Agriculture Development Committee; and

12. No generated energy from any source is considered an agricultural or horticultural product and no income from any power or heat sold from the biomass, solar, or wind energy generation may be considered income for eligibility for valuation, assessment, and taxation of land pursuant to the Act, notwithstanding the provisions of the Act, or any rule promulgated pursuant thereto, to the contrary.

Amended by R.1973 d.295, effective October 17, 1973.

See: 5 N.J.R. 318(a), 5 N.J.R. 393(b).

Amended by R.1979 d.87, effective March 8, 1979.

See: 11 N.J.R. 100(b), 11 N.J.R. 210(b).

Amended by R.1997 d.405, effective October 6, 1997.

See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).

In (a)1, amended to incorporate fees and income and inserted reference to wetland; in (a)2, incorporated fees and inserted reference to wetland; and added (b) and (c).

Amended by R.2004 d.62, effective March 1, 2004.

See: 35 N.J.R. 4044(b), 36 N.J.R. 1226(a).

In (b)1, inserted the third sentence in ii, inserted "at an imputed value of \$99.00" at the end of the second sentence and substituted "\$495.00" for "\$300.00" in iv, substituted "\$1,442" for "\$725.00" at the end of the second sentence and added the third sentence in v, added vi.

Amended by R.2013 d.022, effective February 19, 2013.

See: 44 N.J.R. 2289(b), 45 N.J.R. 352(a).

In (b)li and (b)liii, substituted "10-acre" for "10 acre" throughout; in (b)liii, inserted "for the first five acres"; rewrote (b)liv; in (b)lv, inserted a comma following "14 acres" and "rehabilitating", and substituted "\$1,624" for "\$1,442" and "\$116.00" for "\$103.00"; in (b)lvi, substituted "\$111.00" for "\$100.00", "\$444.00" for "\$400.00", and "\$819.00" for "\$775.00"; and added (b)lvii through (b)lxi and (d).

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Rewrote the section.

#### Case Notes

Property used for growing trees qualified as farmland. Borough of Franklin Lakes v. Mutzberg, 226 N.J.Super. 46, 543 A.2d 477 (A.D.1988).

Agricultural or horticultural use of land otherwise eligible for farmland assessment must be lawful, that is, a permitted use; forestry operation use of land not permitted under zoning ordinance does not qualify to constitute two calendar year minimum use period for farmland assessment eligibility. Clearview Estates, Inc. v. Boro. of Mountain Lakes, 188 N.J.Super. 99, 456 A.2d 111 (App.Div.1982).

#### 18:15-6.2 Devoted to agricultural or horticultural use defined

(a) "Devoted to agricultural or horticultural use" means:

1. Land under and used with barns, sheds, packing houses, farm storage facilities, seasonal farm markets selling predominantly agricultural products, seasonal agricultural labor housing, silos, cribs, and like structures when used in direct support of producing crops for sale;

2. Land that consists of lakes, ponds, streams, stream buffer areas, hedgerows, wetlands, and/or irrigation ponds that are supportive and subordinate or reasonably required for the purpose of maintaining agricultural or horticultural uses of a tract of land, which tract of land has a minimum area of at least five acres devoted to agricultural or horticultural uses other than to the production for sale of trees and forest products;

3. Land on which crops are produced, harvested, and sold, either at retail or wholesale;

4. Land on which cover crops are grown as part of a regular crop rotation program;

5. Land on which poultry are housed or ranged, but if ranged, the land must be enclosed by a fence sufficient to retain such animals;

6. Land on which crops are grown for on-farm use, but not including land that is used to produce crops only for personal consumption;

7. Land kept fallow during a growing season using cultivation or chemical control to eradicate or reduce weeds for future agricultural or horticultural production;

8. Land on which farm animals may be maintained, pastured, or ranged whose products or the animals themselves are produced for market, either retail or wholesale;

9. Land enrolled in a soil conservation program administered by an agency of the Federal government that meets the annual maintenance requirements for future agricultural or horticultural production or an equivalent program such as the Conservation Reserve or Wetlands Reserve Program;

10. Land on which trees and forest products are produced for sale within a reasonable period of time and such land is managed in compliance with a written woodland management plan approved by the State Forester;

11. Land on which livestock is boarded, raised, pastured, rehabilitated, trained, or grazed, and enclosed by a fence sufficient to retain such animals that are themselves or their products sold, except that "livestock" does not include dogs;

12. Land that is used for boarding, rehabilitating, or training livestock for a fee (not including acres pastured) where the livestock is owned by a party or parties other

than the property owner(s), and the land is contiguous to five or more acres that otherwise qualify for valuation, assessment, and taxation under the Act;

13. Land that is supportive and subordinate woodland or wetlands and that is contiguous to, part of, or beneficial to land that is cropland harvested, cropland pastured, or permanent pasture;

14. Land that has limited farming or grazing potential, is managed in an erosion-control program, and is supportive and subordinate or reasonably required for agricultural or horticultural production of land that has a minimum of five acres classified as cropland harvested, cropland pastured, or permanent pasture;

15. Land under greenhouses or poultry or livestock facilities in which animals or their products are sold; or

16. Land used for biomass, solar, or wind energy generation is considered land actively devoted to agricultural or horticultural use as long as it meets the qualifications set forth in N.J.A.C. 18:15-6.1(d), except that the energy generated from such use is not considered an agricultural or horticultural product.

Amended by R.1997 d.405, effective October 6, 1997.  
See: 29 N.J.R. 2803(a), 29 N.J.R. 4333(a).

Added (a)7 and 8.

Amended by R.2004 d.62, effective March 1, 2004.  
See: 35 N.J.R. 4044(b), 36 N.J.R. 1226(a).

In (a), deleted 6 and recodified former 7 and 8 as 6 and 7; added a new 8.

Amended by R.2013 d.022, effective February 19, 2013.  
See: 44 N.J.R. 2289(b), 45 N.J.R. 352(a).

Rewrote the section.

Amended by R.2017 d.001, effective January 3, 2017.  
See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

In (a)1, deleted "the" preceding "producing"; in (a)11, substituted "does" for "shall"; in (a)15, substituted "Land under greenhouses" for "Greenhouses"; and in (a)16, substituted the first occurrence of "is" for "shall be", and "is not" for "shall not be".

#### Statutory References

As to which land is deemed in agricultural use, see N.J.S.A. 54:4-23.3.

As to which land is deemed in horticultural use, see N.J.S.A. 54:4-23.4.

#### Case Notes

City erred in determining that greenhouses owned by a farm did not qualify for a farmland assessment pursuant to N.J.S.A. 54:4-23.12 because persons were allowed into the greenhouses to select plants; based on the definition of "agricultural use" under N.J.S.A. 54:4-23.3, greenhouses could not be disqualified merely because some sales-related activities occurred inside the structures. *Twp. of Monroe v. Gasko*, 182 N.J. 613, 868 A.2d 1022, 2005 N.J. LEXIS 190 (2005).

Farmland assessment denied due to failure to prove production of minimum gross income; three tracts contiguous to farm which had never been functionally part of farm, which were not integrated with the farm in any documentary manner and upon which independent commercial operations had been undertaken held not to qualify for farmland assessment. *Wiesenfeld v. Tp. of South Brunswick*, 166 N.J. Super 90, 398 A.2d 1342 (App.Div.1979).

Farmland assessment upheld; Farmland Assessment Act did not exceed its enabling constitutional amendment by allowing forestland to be

entitled to farmland assessment; owner's intended use of eligible land is not to be considered in determining eligibility; assessment of land at highest farmland valuation held erroneous as without supporting method of valuation in evidence. *Urban Farms, Inc. v. Tp. of Wayne, Passaic Cty.*, 159 N.J. Super. 61, 386 A.2d 1357 (App.Div.1978).

Woodlands and reservoirs contiguous to taxpayer's cranberry bogs held reasonably required for purpose of maintaining land in agricultural use; adoption of lowest assessment rate by trial judge without explanation held totally arbitrary and requiring remand. *Bunker Hill Cranberry Co. v. Tp. of Jackson*, 144 N.J. Super. 230, 365 A.2d 204 (App.Div.1976), certification denied, 73 N.J. 59, 372 A.2d 324 (1977).

Tract principally dedicated to agricultural use and meeting statutory area and gross sales requirements held entitled to farmland assessment in its entirety rather than only that portion of tract actually being farmed. *Tp. of Andover v. Kymex*, 140 N.J. Super. 399, 356 A.2d 418 (App.Div.1976).

Farmland Assessment Act required that for a parcel to qualify for farmland assessment as a woodlot, the written and approved woodland management plan required by the statute must be filed on or before January 1, two full years prior to the year for which farmland assessment is sought. *Alexandria Tp. v. Orban*, 21 N.J. Tax 298.

Amendments to property tax exemption statute requiring written woodland management plan for farmland assessment of woodlands were intended to provide a reasonable means of eliminating the widespread practice of indiscriminate cutting of woodlands to meet the earned income requirements of farmland assessment and to close tax loophole utilized by speculators and land developers. *Alexandria Tp. v. Orban*, 21 N.J. Tax 298.

Taxpayer was not entitled to farmland assessment for appurtenant parcel of land where farmland and parcel were separate tax line items and had distinct characteristics and purposes. *Wyer v. Middleton Tp.*, 16 N.J. Tax 544 (1997).

Land used for grazing horses for fee did not qualify for farmland assessment. *Dowd v. Howell Tp.*, 15 N.J. Tax 82 (1995).

Woodland, wet areas and other acreage having a marginal value for agricultural or horticultural use may also be given a farmland assessment, as long as the acreage is part of, appurtenant to, or reasonably required for the purpose of maintaining the land actually devoted to farm use, particularly where it has been part of the farm for a number of years. *Boro. of Califon v. Stonegate Properties, Inc.*, 2 N.J. Tax 153 (Tax Ct.1981).

Where two tracts of land were neither contiguous nor appurtenant to the tract entitled to farmland assessment, the two tracts were not reasonably required for the purpose of maintaining the farmland tract and agricultural use, and were therefore not entitled to farmland assessment. *Bass River Tp. v. Hogwallow, Inc.*, 1 N.J. Tax 612 (Tax Ct.1980).

Land is devoted to an agricultural use if it is "devoted to woodland appurtenant to land in agricultural or horticultural use and reasonably required for the purpose of maintaining the land in such use"; additional woodland, uncultivated, unused and unneeded for production primary function cannot be added on to bring taxpayer within the statutory five-acre requirement for farmland assessment. *Mason v. Tp. of Wyckoff*, 1 N.J. Tax 433 (Tax Ct.1980).

Taxpayer who cultivated and sold yews and azaleas on approximately one acre of his property failed to establish that appurtenant woodland was reasonably required for the purpose of maintaining the horticultural use of the land devoted to azaleas and yews; therefore, the taxpayer did not meet the 5-acre minimum requirement for a farmland assessment. *Kugler v. Wall*, 1 N.J. Tax 10, 1980 N.J. Tax LEXIS 77 (Tax Ct. 1980).

**18:15-6.3 Guidelines for generally accepted agricultural/horticultural practices**

The Department of Agriculture, pursuant to N.J.S.A. 54:4-23.3d, has provided the Division of Taxation with Guidelines for Generally Accepted Agricultural/Horticultural Practices Under Farmland Assessment. These guidelines may be found on the Division of Taxation website at <http://www.state.nj.us/treasury/taxation/lpt/referencematerials.shtml>.

New Rule, R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Former N.J.A.C. 18:15-6.3, Evidence of anticipated yearly gross sales, fees or payments, was recodified to N.J.A.C. 18:15-6.4.

**18:15-6.4 Evidence of anticipated yearly gross sales, fees, or payments**

(a) An applicant must submit proof that from the present use and the nature and characteristics of the land and from the productivity plans of the owner or occupant thereof, it can be demonstrated that the income requirements as specified in N.J.A.C. 18:15-6.1 are met. Included in the minimum gross sales to qualify the farm should be crops grown for on-farm use at the retail sales value which the farmer would have to pay for if purchased in the open market, but not included would be products grown for on-farm personal consumption.

(b) The formula for computing the minimum gross sales to qualify a farm for farmland assessment is illustrated by the following example:

**Example:**

A farm contains 105 actively devoted acres, 75 acres are farmland and 30 acres are woodland. The gross sales are \$1,485. The minimum gross sales for the property per year would be \$1,365 (\$1,000 for the first five acres devoted to farmland, plus \$350.00 (70 x \$5.00) for the additional acres used for farmland, plus \$15.00 (30 x \$0.50) for the acres under an approved woodland management plan. Since the farm has gross sales of \$1,485 and \$1,365 is the minimum requirement, this farm would qualify under the Act as to gross sales.

Amended by R.1973 d.295, effective October 17, 1973.

See: 5 N.J.R. 318(a), 5 N.J.R. 393(b).

Amended by R.1997 d.405, effective October 6, 1997.

See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).

Recodified from N.J.A.C. 18:15-6.3 and amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Section was "Evidence of anticipated yearly gross sales, fees or payments". Rewrote the section. Former N.J.A.C. 18:15-6.4, Failure to meet additional gross sales income requirements on acreage—roll-back, was recodified to N.J.A.C. 18:15-6.5.

**Case Notes**

Crops grown for on-farm use; value in determining average gross annual sales. *Cheyenne Corp. v. Township of Byram*, 14 N.J.Tax 167 (A.D.1993).

**18:15-6.5 Failure to meet additional gross sales income requirements on acreage—roll-back**

(a) Land previously qualified as actively devoted to agricultural or horticultural use under the Act but failing to meet the additional requirement on acreage above five acres will not be subject to the roll-back tax because of such disqualification, but will be treated as land for which an annual application has not been submitted.

(b) Land that is farmed but is insufficient in acreage or income, should be denied for farmland assessment, and will not be subject to the roll-back tax because of this disqualification, but will be treated as land for which an annual application has not been submitted.

(c) Land previously qualified as actively devoted to agricultural or horticultural use pursuant to N.J.S.A. 54:4-23.5, but failing to meet any increase in the minimum amount of gross sales, payments, and fees received, and imputed income requirements, and anticipated yearly gross sales, payments, fees, and imputed income requirements, will not be subject to the roll-back tax because of such disqualification, but will be treated as land for which an annual application has not been submitted, provided that the land remains in agricultural or horticultural use.

(d) Land qualified as actively devoted to agricultural or horticultural use as of the day before the date of enactment of P.L. 2013, c. 43 (April 15, 2013) due to the use of payments or other compensation received under a soil conservation program agreement with any agency of the Federal government, but which payments or other compensation do not meet the minimum amounts required pursuant to N.J.S.A. 54:4-23.5, will continue to be considered to be actively devoted to agricultural or horticultural use for purposes of farmland assessment until the end of the soil conservation program agreement period.

Amended by R.1973 d.295, effective October 17, 1973.

See: 5 N.J.R. 318(a), 5 N.J.R. 393(b).

Amended by R.2013 d.022, effective February 19, 2013.

See: 44 N.J.R. 2289(b), 45 N.J.R. 352(a).

Section was "Failure to meet additional gross sales requirement on acreage — rollback?". Added designation (a); and added (b).

Recodified from N.J.A.C. 18:15-6.4 and amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Rewrote the section. Former N.J.A.C. 18:15-6.5 was "Reserved".

**SUBCHAPTER 7. ROLL-BACK TAXES.****18:15-7.1 When applicable**

When land that is in agricultural or horticultural use and is being assessed under the Act is applied to a use other than agricultural or horticultural, the land becomes ineligible for farmland assessment and it is subject to additional taxes, referred to as roll-back taxes.

Amended by R.2017 d.001, effective January 3, 2017.  
See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).  
Rewrote the section.

#### Statutory References

As to when roll-back taxes become applicable, see N.J.S.A. 54:4-23.8.

#### Case Notes

Reformation of title insurance policy for Farmland Assessment Act liability exception; buyer held liable for roll-back taxes due to change in use of property. *Paz v. DeSimone*, 139 N.J.Super. 102, 352 A.2d 609 (Ch.Div.1976).

### 18:15-7.2 Liability attaches on land use change

(a) The liability for roll-back taxes attaches to the land at the time a change in the use of the land occurs, but not when a change in ownership takes place if the new owner continues to devote the land to agricultural or horticultural use in conformity with the requirements of the Act.

(b) Land acquired by the State, a local government unit, a qualifying tax-exempt nonprofit organization, or the Palisades Interstate Park Commission for recreation and conservation purposes will not be subject to roll-back taxes. As used in this section, "acquired," "local government unit," "qualifying tax-exempt nonprofit organization," and "recreation and conservation purposes" mean the same as those terms are defined pursuant to N.J.S.A. 13:8C-3 and as amended by N.J.S.A. 13:8C-29.

Amended by R.2004 d.62, effective March 1, 2004.

See: 35 N.J.R. 4044(b), 36 N.J.R. 1226(a).

Identified existing text as (a); added (b).

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Rewrote (b).

#### Statutory References

As to when liability for roll-back taxes occurs, see N.J.S.A. 54:4-23.8.

#### Case Notes

Parcels obtained by Department of Environmental Protection for public water supply, recreation and conservation purposes were not exempt from roll-back taxes; roll-back taxes do not automatically apply upon a change of ownership, absent change in use. *Dep't of Environmental Protection v. Franklin Tp.*, 3 N.J.Tax 105, 181 N.J.Super. 309, 437 A.2d 353 (Tax Ct.1981), affirmed 5 N.J.Tax 476 (App.Div.1983).

Reformation of title insurance policy for Farmland Assessment Act liability exception; buyer held liable for roll-back taxes due to change in use of property. *Paz v. DeSimone*, 139 N.J.Super. 102, 352 A.2d 609 (Ch.Div.1976).

### 18:15-7.3 Amount; computation

(a) In determining the amount of roll-back taxes chargeable on land that has undergone a change in use, the assessor is required for each of the roll-back tax years involved to ascertain:

1. The full and fair value, that is, true market value, of such land under the valuation standard applicable to other taxable land in the taxing district;

2. The amount of the land assessment for the particular tax year by multiplying such full and fair value by the common level percentage, also known as the Director's Ratio, as determined by the county board of taxation in accordance with N.J.S.A. 54:4-2.27;

3. The amount of the additional assessment on the land for the particular tax year by deducting the amount of the actual assessment on the land for that year from the amount of the land assessment determined under (a)2 above; and

4. The amount of the roll-back tax for that year by multiplying the amount of the additional assessment determined under (a)3 above by the general property tax rate of the taxing district applicable for that tax year. The general property tax rate does not include special district tax rates, only those rates for counties, school districts, and municipalities.

R.1971 d.138, eff. August 12, 1971.

See: 3 N.J.R. 185(a), 3 N.J.R. 138(b).

Amended by R.2013 d.022, effective February 19, 2013.

See: 44 N.J.R. 2289(b), 45 N.J.R. 352(a).

In the introductory paragraph of (a), substituted "that" for "which"; in (a)1, inserted ", that is, true market value,"; rewrote (a)2; in (a)3, substituted "(a)2 above" for "paragraph 2 of this subsection"; and in (a)4, substituted "(a)3 above" for "paragraph 3 of this subsection".

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

In (a)2, updated the statutory citation; and in (a)4, inserted the second sentence.

#### Statutory References

As to computation of roll-back taxes, see N.J.S.A. 54:4-23.8.

#### Case Notes

Reformation of title insurance policy for Farmland Assessment Act liability exception; buyer held liable for roll-back taxes due to change in use of property. *Paz v. DeSimone*, 139 N.J.Super. 102, 352 A.2d 609 (Ch.Div.1976).

### 18:15-7.4 Tax years applicable

(a) Roll-back taxes are applied to land for the tax year in which the change in the use of the land occurs and for such of the two tax years immediately preceding such year if assessed under the Act.

(b) Examples are as follows:

Example (1): A parcel of land qualifies for farmland assessment for the tax years 2015, 2016, and 2017. A change of use occurs in June 2017. The land is subject to roll-back taxes for the tax years 2015, 2016, and 2017.

Example (2): A parcel of land was assessed generally for the tax year 2015, and qualified for farmland assessment in the tax years 2016 and 2017. A change in use occurs in June 2017. The land is subject to roll-back taxes for the tax years 2016 and 2017, but not subject to roll-back taxes for the tax year 2015, inasmuch as the land was not assessed under the Act for such tax year.



Amended by R.1979 d.87, effective March 8, 1979.  
 See: 11 N.J.R. 100(b), 11 N.J.R. 210(b).  
 Amended by R.1997 d.405, effective October 6, 1997.  
 See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).  
 In (b)1 and 2, changed applicable years.  
 Amended by R.2004 d.62, effective March 1, 2004.  
 See: 35 N.J.R. 4044(b), 36 N.J.R. 1226(a).  
 In (b), amended the tax years throughout.  
 Amended by R.2013 d.022, effective February 19, 2013.  
 See: 44 N.J.R. 2289(b), 45 N.J.R. 352(a).  
 In (b)1, substituted "2008, 2009, and 2010" for "2001, 2002, and 2003" twice, and substituted the second occurrence of "2010" for the second occurrence of "2003"; and in (b)2, substituted "2008" for "2001" twice, "2009 and 2010" for "2002 and 2003" twice, and the second occurrence of "2010" for the second occurrence of "2003".  
 Amended by R.2017 d.001, effective January 3, 2017.  
 See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).  
 In (a), inserted "if"; and rewrote (b).

#### Statutory References

As to the years which are subject to roll-back taxes, see N.J.S.A. 54:4-23.8.

#### Case Notes

Parcels obtained by Department of Environmental Protection for public water supply, recreation and conservation purposes were not exempt from roll-back taxes; roll-back taxes do not automatically apply upon a change of ownership, absent change in use. Dep't of Environmental Protection v. Franklin Tp., 3 N.J.Tax 105, 181 N.J.Super. 309, 437 A.2d 353 (Tax Ct.1981), affirmed 5 N.J.Tax 476 (App.Div.1983).

#### 18:15-7.5 Change in use when land not assessed under the Act

(a) If a change in use of the land occurs in a tax year when the land was not assessed and taxed under the Act, then such land becomes subject to roll-back taxes for such of the two tax years immediately preceding in which the land was assessed under the Act.

Example: A parcel of land was assessed under the Act for the tax years 2015 and 2016, but not for 2017. A change in use occurs in June 2017. The land is subject to roll-back taxes for the tax years 2015 and 2016, but is not subject to roll-back taxes for 2017, inasmuch as the land was not assessed under the Act for such tax year.

Amended by R.1979 d.87, effective March 8, 1979.  
 See: 11 N.J.R. 100(b), 11 N.J.R. 210(b).  
 Amended by R.1997 d.405, effective October 6, 1997.  
 See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).  
 In (a)1, changed applicable years.  
 Amended by R.2004 d.62, effective March 1, 2004.  
 See: 35 N.J.R. 4044(b), 36 N.J.R. 1226(a).  
 Amended the tax years throughout.  
 Amended by R.2013 d.022, effective February 19, 2013.  
 See: 44 N.J.R. 2289(b), 45 N.J.R. 352(a).  
 In (a)1, substituted the first occurrence of "2008 and 2009" for "2001 and 2002", and the first and second occurrence of "2010" for the first and second occurrence of "2003", "2008 and 2009," for "2001, 2002", and "2010," for the third occurrence of "2003".  
 Amended by R.2017 d.001, effective January 3, 2017.  
 See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).  
 In (a), removed designation (a)1, and substituted "2015" for "2008" twice, "2016" for "2009" twice, and "2017" for "2010" three times.

#### Statutory References

As to liability which changes following a change in use when the land is not assessed under the Act, see N.J.S.A. 54:4-23.8.

#### Case Notes

Land acquired by state was subject to rollback taxes for portion of year prior to acquisition. State by Com'r of Transp. v. Pohatcong Tp., 9 N.J.Tax 528 (1988).

#### 18:15-7.6 Procedure for assessment, collection, apportionment, and payment of roll-back taxes

The assessment, collection, apportionment, and payment of the roll-back taxes imposed by the Act is governed by the procedures set forth in N.J.S.A. 54:4-23.8 and 23.9 and the provisions of N.J.S.A. 54:4-63.12 through 63.30 for the assessment and taxation of omitted property.

Amended by R.2013 d.022, effective February 19, 2013.  
 See: 44 N.J.R. 2289(b), 45 N.J.R. 352(a).

Section was "Procedure for assessment, collection, apportionment and payment over of roll-back taxes". Rewrote the section.

#### Statutory References

As to procedures for assessment, collection, apportionment and payment over of roll-back taxes, see N.J.S.A. 54:4-23.9.

#### Case Notes

Reformation of title insurance policy for Farmland Assessment Act liability exception; buyer held liable for roll-back taxes due to change in use of property. Paz v. DeSimone, 139 N.J.Super. 102, 352 A.2d 609 (Ch.Div.1976).

#### 18:15-7.7 Due date

(a) The due date for payment of roll-back taxes is governed by N.J.S.A. 54:4-63.20 dealing with the assessment and taxation of omitted property.

(b) Roll-back taxes are payable on November 1 following the rendering of the judgment of assessment by the county board of taxation, provided such judgment is rendered before October 1 of that year.

(c) If such judgment is rendered subsequent to October 1 and before December 31, such taxes are payable on November 1 of the following year.

#### Statutory References

As to due date for payment of roll-back taxes, see N.J.S.A. 54:4-23.9.

#### 18:15-7.8 Lien date

Roll-back taxes become a lien upon the land as of January 1 of the year in which the judgment of the county board is rendered.

Amended by R.2017 d.001, effective January 3, 2017.  
 See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).  
 Substituted "as of" for "from".

#### Statutory References

As to roll-back taxes becoming a lien, see N.J.S.A. 54:4-23.9 and 54:4-63.12 *et seq.*

**18:15-7.9 Review of judgment of county board of taxation**

(a) The right of a taxing district, owner or other interested party to review any judgment of the county board of taxation affecting roll-back taxes is governed by the procedures provided for the assessment and taxation of omitted property (N.J.S.A. 54:4-63.23).

(b) Any judgment may be reviewed by the Tax Court of New Jersey on appeal taken and prosecuted in the same manner as other appeals to said Court.

(c) The notice of appeal is required to be filed with said Tax Court within 45 days of the service of the judgment of the county board of taxation.

Amended by R.1997 d.405, effective October 6, 1997.

See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).

In (b) and (c), substituted references to Tax Court for references to Division of Tax Appeals; and in (c), amended filing date.

**Statutory References**

As to review of decisions of county board of taxations, see N.J.S.A. 54:4-23.9.

**18:15-7.10 Tax years when procedures applicable**

(a) The procedures for the assessment, collection, apportionment and payment of the roll-back taxes, the attachment of the lien for such taxes, and the right of a taxing district, owner or other interested party to review any judgment of the county board of taxation affecting such roll-back taxes, apply to each tax year for which roll-back taxes may be imposed, regardless of or despite the limitation, prescribed in the Omitted Assessment Law, (N.J.S.A. 54:4-63.23) respecting the periods for which omitted assessments may be imposed.

(b) For the purpose of applying the roll-back tax authorized by the Farmland Assessment Act of 1964, the procedures of the Omitted Property Tax Law apply for the tax year in which a change in use takes place and in such of the two tax years immediately preceding in which the land was valued, assessed, and taxed under said Act.

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

In (a), deleted "over" following "payment", and substituted "regardless of or despite" for "notwithstanding"; and rewrote (b).

**Statutory References**

As to procedures for the assessment, collection, apportionment and payment due to the roll-back taxes, see N.J.S.A. 54:4-23.9.

**18:15-7.11 through 18:15-7.14 (Reserved)****SUBCHAPTER 8. CHANGE OF USE****18:15-8.1 Effect**

(a) When land that is being assessed under the Act is applied to a use other than agricultural or horticultural, it becomes subject to roll-back taxes. (See N.J.A.C. 18:15-7, Roll-Back Taxes, for procedure imposing roll-back taxes. See N.J.A.C. 18:15-12, Eminent Domain, respecting the applicability of roll-back taxes in case of eminent domain.)

(b) Despite the provisions of any law, rule, or regulation to the contrary, land which is valued, assessed, and taxed under the provisions of the Act, N.J.S.A. 54:4-23.1 et seq., and is acquired by the State, a local government unit, a qualifying tax exempt nonprofit organization, or the Palisades Interstate Park Commission for recreation and conservation purposes will not be subject to roll-back taxes.

1. As used in this subsection, "acquired," "local government unit," "qualifying tax exempt nonprofit organization," and "recreation and conservation purposes" mean the same as those terms are defined pursuant to N.J.S.A. 13:8C-3, the Garden State Preservation Trust Act.

Amended by R.2013 d.022, effective February 19, 2013.

See: 44 N.J.R. 2289(b), 45 N.J.R. 352(a).

Added designation (a); rewrote (a); and added (b).

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Rewrote (b).

**Statutory References**

As to details appearing on assessors list, see N.J.S.A. 54:4-23.19.

**18:15-8.2 Change of use between certain dates**

(a) If a change in the use of land occurs between August 1 and December 31 of the pre-tax year, and an application is then pending for assessment under the Act for the ensuing tax year, either the assessor or the county board of taxation, as the case may be, shall deny or nullify such application and, after examination and inquiry, determine the full and fair value of said land under the valuation standard applicable to other land in the taxing district and assess the same according to such value.

Example: An application is filed with the assessor on or before August 1, 2016, for farmland assessment for the tax year 2017. On November 15, 2016, a change in use of the land takes place. The assessor, knowing of the change of use, will deny the application and value and assess the land for the tax year 2017 in the same manner as other real property in the taxing district. If the assessor is unaware of such change before he files his assessment list and duplicate on January 10 following, then the county board of taxation, if it has knowledge of the change before the tax roll becomes final, will revoke the application and assess the land in the same manner as other real property in the taxing district.

(b) If, regardless such change of use, the land is assessed under the Act in the ensuing tax year, then the assessor is required to enter an assessment, as an added assessment against such land, in the "Added Assessment List" for the particular tax year involved in the manner prescribed in the Added Assessment Law, N.J.S.A. 54:4-63.2 et seq.

(c) The added assessment is to be in an amount equal to the difference, if any, between the assessment imposed under the Act and the assessment that would have been imposed had the land been valued and assessed as other land in the taxing district. This added assessment is applicable to the full tax year and not subject to proration.

Example: A change in use takes place on November 15, 2016, but is not discovered by the assessor or the county board of taxation until June 1, 2017. In that event, the assessor will enter an added assessment against the land on the "Added Assessment List" for 2017, in accordance with (b) above. In addition, he or she shall impose roll-back taxes using the regular, not the alternative omitted procedure, for such of the tax years 2016, 2015, and 2014, in which the land was assessed under the Act.

R. 1971 d.138, effective August 12, 1971.

See: 3 N.J.R. 185(a), 3 N.J.R. 138(b).

Amended by R.1979 d.87, effective March 8, 1979.

See: 11 N.J.R. 100(b), 11 N.J.R. 210(b).

Amended by R.1997 d.405, effective October 6, 1997.

See: 29 N.J.R. 2803(a), 29 N.J.R. 4335(a).

In (a)1 and (c)1, changed applicable years.

Amended by R.2004 d.62, effective March 1, 2004.

See: 35 N.J.R. 4044(b), 36 N.J.R. 1226(a).

Amended the tax years throughout.

Amended by R.2013 d.022, effective February 19, 2013.

See: 44 N.J.R. 2289(b), 45 N.J.R. 352(a).

In the introductory paragraph of (a), substituted "August" for "October"; in (a)1, inserted "Example:," and substituted "2009" for the first occurrence of "2002", "2010" for "2003" twice, and "2009," for the second occurrence of "2002"; in the introductory paragraph of (c), substituted "that" for "which" and "proration" for "probation"; and rewrote (c)1.

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

In (a), removed designation (a)1, and substituted "2016" for "2009" twice, and "2017" for "2010" twice; in (b), substituted "regardless" for "notwithstanding"; and in (c), removed designation (c)1, substituted the first occurrence of "2016" for "2009", "2017" for "2010" twice, "2016, 2015, and 2014" for "2009, 2008, and 2007", inserted "the" preceding "land", inserted quotation marks preceding "Added" and following "List", and inserted "or she".

**Statutory References**

As to treatment of land which undergoes a change in use between October 1 and December 1, see N.J.S.A. 54:4-23.13.

**18:15-8.3 Effect of additional assessment on roll-back taxes**

The imposition of an additional assessment for the tax year, under N.J.S.A. 54:4-23.13 by reason of a change in use between October 1 and December 31 of the pre-tax year, does not affect the imposition of the roll-back taxes, if any, under the roll-back provisions set forth in N.J.S.A. 54:4-23.8.

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Deleted "of the Act" twice, following the statutory citations.

**Statutory References**

As to the effect of an additional assessment on roll-back taxes, see N.J.S.A. 54:4-23.13,

**18:15-8.4 through 18:15-8.5 (Reserved)**

**SUBCHAPTER 9. EQUALIZATION—STATE SCHOOL AID AND COUNTY APPORTIONMENT PURPOSES**

**18:15-9.1 Apportionment valuation of land; classification; assessment ratio**

(a) The Director, in equalizing the value of land assessed and taxed under the Act for the purposes of State school aid, and each county board of taxation in equalizing the value of such land for the purpose of determining the "apportionment valuation" under N.J.S.A. 54:4-49, shall determine the true value of such land on the basis of its agricultural or horticultural use.

(b) In the sales-ratio analysis for such purposes, the assessed value of farm property is to be divided into two categories, namely, farmland assessed under the Act and farmland assessed as other real property in the taxing district.

(c) A separate assessment ratio is then to be determined for each property classification, except that the assessment ratio determined for the classification "Residential" is also applied to the classification "Farmland Assessed Under the Act." (See N.J.A.C. 18:12-2.2)

(d) The true value for each classification, the true value of all property in the district, and the average assessment ratio for the district, is to be determined in accordance with the established sales-ratio procedures.

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

In (a), substituted "State" for "state"; and in (c), inserted "property", substituted "Act." for "Act.", and inserted the last sentence.

**Statutory References**

As to determination of true value of land for purpose of state school aid and apportionment valuation, see N.J.S.A. 54:4-23.10.

**Case Notes**

Sale of commercial property used as trucking company depot held a nonusable deed transaction concerning the sale of commercial property including indeterminable items, plus property excluded from the Division assessment practices study. Union Tp. v. Director, Division of Taxation, 1 N.J.Tax 15, 176 N.J.Super. 239, 422 A.2d 803 (Tax Ct.1980).

## SUBCHAPTER 10. CONTINUANCE OF FARMLAND ASSESSMENT

### 18:15-10.1 Continuous agricultural use for farmland assessment

(a) In order that land continue to be valued, assessed, and taxed as farmland it must continue to be devoted to agricultural or horticultural use and comply with the other requirements of the Act.

(b) Liability for roll-back taxes does not accrue when a change in ownership takes place if the new owner continues to devote the land to agricultural or horticultural use, under the conditions prescribed in the Act.

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

In (a), inserted a comma following "assessed"; deleted (b); and re-codified former "(c)" as "(b)".

#### Statutory References

As to continuance of farmland valuation, assessment and taxation, see N.J.S.A. 54:4-23.15.

#### Case Notes

Roll-back tax liability found where appurtenant parcel formerly farmland assessed was split up and conveyed to a third party for use unrelated to agriculture or horticulture, demonstrating it was no longer needed to support unsold portion of farm. *Hinck v. Wall Tp.*, 3 N.J.Tax 96 (Tax Ct.1981).

### 18:15-10.2 through 18:15-10.3 (Reserved)

## SUBCHAPTER 11. SEPARATION OR SPLIT-OFF

### 18:15-11.1 Liability for roll-back taxes on land split-off

The separation or split-off of a part of any land assessed under the Act, either by conveyance or other action of the owner, for a use other than agricultural or horticultural, subjects the separated or split-off land to liability for the roll-back taxes applicable. (See N.J.S.A. 54:4-23.16)

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Rewrote the section.

#### Statutory References

As to treatment of a separation or split-off, see N.J.S.A. 54:4-23.16.

#### Case Notes

Roll-back tax liability found where appurtenant parcel formerly farmland assessed was split up and conveyed to a third party for use unrelated to agriculture or horticulture, demonstrating it was no longer needed to support unsold portion of farm. *Hinck v. Wall Tp.*, 3 N.J.Tax 96 (Tax Ct.1981).

### 18:15-11.2 Land still meeting requirements of the Act

The separation and change of use does not impair the right of the remaining land to continue to be assessed under the Act, provided it still meets the five acre minimum area requirement and other conditions of the Act as may be applicable.

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Section was "Land still meeting requirements of Act". Substituted "separate and change of use" for "Act", and deleted footnote 1 and reference thereto.

## SUBCHAPTER 12. EMINENT DOMAIN

### 18:15-12.1 Effect of roll-back taxes on eminent domain and condemnation

The taking of land that is being valued, assessed, and taxed under the Act by right of eminent domain pursuant to N.J.S.A. 20:3-1 is not exempt from the imposition of roll-back taxes.

R.1971 d.138, effective August 12, 1971.

See: 3 N.J.R. 185(a), 3 N.J.R. 138(b).

Amended by R.2013 d.022, effective February 19, 2013.

See: 44 N.J.R. 2289(b), 45 N.J.R. 352(a).

Substituted "that" for "which", "not" for "no longer", and "c. 243" for "c.243", inserted a comma following "assessed", and deleted ", approved October 28, 1970" following "243".

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Inserted "pursuant to N.J.S.A. 20:3-1" and deleted second sentence.

## SUBCHAPTER 13. CONTIGUOUS LAND IN MORE THAN ONE TAXING DISTRICT

### 18:15-13.1 Determination of minimum area requirement

Where contiguous land in agricultural or horticultural use and in single ownership is located in more than one taxing district, compliance with the five acre minimum area requirement is determined on the basis of the total area of such land and not merely the area of the part which is located in the particular taxing district.

#### Example:

An application for farmland assessment covers 15 contiguous acres of land in agricultural use in single ownership; three acres are in taxing district A, the remaining 12 acres are in taxing district B. The three acres in taxing district A are deemed to meet the five-acre minimum area requirement, since it is the aggregate contiguous area, in single ownership, that determines area eligibility in such case, and not merely the area of the portion located in the individual taxing district. (See N.J.A.C. 18:15-3.2(c))

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Substituted "single" for "one" three times; in the introductory paragraph, inserted the first occurrence of "and"; and in the Example, removed quotation marks around "A" twice, and around "B", and rewrote the last sentence.

**Statutory References**

As to the treatment of contiguous land in one ownership in more than one taxing district, see N.J.S.A. 54:4-23.18.

**Case Notes**

Single legal ownership for land within one taxing district not required for eligibility for farmland assessment. *Shein v. North Brunswick Tp.*, 9 N.J.Tax 1 (1986).

**18:15-13.2 through 18:15-13.3 (Reserved)**

**SUBCHAPTER 14. STATE FARMLAND EVALUATION COMMITTEE**

**18:15-14.1 Creation**

Under the Act, a State Farmland Evaluation Committee (Committee) is created, the members of which are the Secretary of Agriculture; the Dean of the College of Agriculture, Rutgers—The State University; the Director of the Division of Taxation; a municipal tax assessor, county assessor, or county tax administrator, who is appointed by the Governor with the advice and consent of the Senate; and a farmer who is a current or former member of the State Board of Agriculture, who is appointed by the Governor with the advice and consent of the Senate. Each appointed member serves for a term of three years and may be appointed to successive terms.

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Rewrote the section.

**Statutory References**

As to creation of State Farmland Evaluation Advisory Committee, see N.J.S.A. 54:4-23.20.

**18:15-14.2 Meetings and duties**

(a) The Committee meets from time to time on the call of the Secretary of Agriculture and annually determines and publishes a range of values for each of the several classifications of lands in agricultural and horticultural use in the various areas of the State.

(b) The Committee also conducts the review, required every three years, or sooner at the call of the Secretary of Agriculture or the Director of the Division of Taxation, of the minimum gross sales, payments, fees, and imputed income requirements, and anticipated yearly gross sales, payments, fees, and imputed income requirements, in order for land which is actively devoted to agricultural or horticultural use to be eligible for valuation, assessment, and taxation under the provisions of N.J.S.A. 54:4-23.1 et seq., as prescribed by

N.J.S.A. 54:4-23.5, and may raise the amounts of those minimums to such levels as the Committee determines appropriate as authorized pursuant to N.J.S.A. 54:4-23.5.

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Rewrote the section.

**Statutory References**

As to meetings and duties of State Farmland Evaluation Advisory Committee, see N.J.S.A. 54:4-23.20.

**18:15-14.3 Objectives**

The primary objectives of the Committee are the determination of the ranges in fair value of such land based upon its productive capabilities when devoted to agricultural or horticultural uses and the determination of the minimum income requirements needed to be considered actively devoted. The Committee is also to review farmland assessment application forms and make recommendations to the Director of the Division of Taxation.

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Rewrote the section.

**Statutory References**

As to objective of State Farmland Evaluation Advisory Committee, see N.J.S.A. 54:4-23.20.

**18:15-14.4 Considerations in determining value**

(a) In making annual determinations of value, the Committee considers available evidence of agricultural and horticultural capability derived from the soil survey data at Rutgers—The State University, the National Cooperative Soil Survey, and such other evidence of value of land devoted exclusively to agricultural or horticultural uses as it may in its judgment considers pertinent.

(b) On or before October 1 of each year, the Committee makes these ranges of fair value available to the assessing authority in each of the taxing districts in which land in agricultural or horticultural use is located.

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

In (a), substituted "considers" for "deem".

**Statutory References**

As to considerations in determining value, as N.J.S.A. 54:4-23.20.

**18:15-14.5 Effect of assessor**

While values recommended by this Committee for the several classifications of land in agricultural or horticultural use in the various areas of the State are not binding upon the assessor, he or she is required by Section 7 of the Act to "... consider available evidence of agricultural and horticultural capability derived from the soil survey data at Rutgers—The State University, the National Cooperative Soil Survey and

the recommendations of value of such land as made by any county or state-wide committee which may be established to assist the assessor...," in determining the value of such land for assessment purposes under the Act.

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

Substituted "several" for "various", and inserted "or she".

#### Statutory References

As to the requirements that the State Farmland Evaluation Advisory Committee shall make their determination of the ranges of value available to the assessors, see N.J.S.A. 54:4-23.20.

#### 18:15-14.6 Development of agricultural or horticultural use values by assessors

(a) The Director recommends that an assessor utilize the valuation standards established by the State Farmland Evaluation Committee in valuing farmland qualified property in accordance with N.J.S.A. 54:4-23.7.

(b) In the event an assessor plans not to utilize the valuation standards established by the State Farmland Evaluation Committee in valuing qualified farmland, the assessor shall submit such alternate standards to the Director by November 1 of the pre-tax year, indicating his or her reasons for not following the Committee's recommendations. The assessor shall further submit a detailed explanation as to the procedure and valuation standards to be applied in valuing qualified farmland.

(c) After review of such information, the Director shall inform the assessor and the respective county board of taxation by December 10 of the pre-tax year as to the propriety of utilizing the alternate standard. If the Director advises against utilization of the alternate standard and the assessor chooses to rely on such standard for establishing qualified farmland assessments, he or she shall give written notice to the Direc-

tor and the county board of taxation no later than December 31 of the pre-tax year.

(d) The county board of taxation, after its review as provided under N.J.S.A. 54:4-46, shall direct the assessor to make such changes it considers necessary to accomplish qualified farmland assessments in accordance with the Farmland Assessment Act of 1964.

New Rule, R.1987 d.237, effective June 1, 1987.

See: 19 N.J.R. 447(b), 19 N.J.R. 987(b).

Amended by R.2017 d.001, effective January 3, 2017.

See: 48 N.J.R. 1430(a), 49 N.J.R. 118(b).

In (a) and (b), deleted "Advisory" preceding "Committee"; in (b) and (c), substituted "pre-tax" for "pretax" three times; in (b), inserted "or her", and deleted "Advisory" preceding "Committee's"; in (c), deleted ", nevertheless," following the second occurrence of "assessor"; and in (d), substituted "considers" for "deems".

#### Case Notes

Township assessor's failure, when valuing floricultural greenhouse operations, to follow regulations recommending that assessors use valuation standards established by Advisory Committee created by the Farmland Assessment Act, and requiring notifications by assessors if they elect not to use such standards, rendered assessor's valuations invalid; regulations were valid and enforceable as they did not impose requirements beyond the scope and purposes of Act and served important function of promoting uniform assessment of farmland throughout the state. *Van Vugt v. Pequannock Township*, 20 N.J. Tax 129.

Even if township assessor had followed procedures contained in regulations on valuing farmland property, assessor's valuations of floricultural greenhouse operations were invalid, as assessor's valuation methodology did not establish value of subject properties as required by Farmland Assessment Act; assessor applied income methodology and used income and expenses from one greenhouse operator, assumed rest of operators' properties would reflect same results, valuation did not reflect the productive capability of operators' lands but rather was a function of the market value of crops planted and management skill of the farmer, and per acre price determined by assessor was more than forty-five times higher than highest per acre value under valuation methodology established by the Act. *Van Vugt v. Pequannock Township*, 20 N.J. Tax 129.