

Applying to the Farmland Preservation Program

Key Issues for Consideration

You and your family's goals and objectives for your farmland are important considerations when contemplating an application to the Farmland Preservation Program (FPP). Once a FPP easement is sold you still own the land, but it will be forever restricted to agricultural use, with the potential for a limited number of residences as may be permitted in the final easement document (the Deed of Easement).

Issues that should be considered *as soon as possible in the application process* include, but are not limited to:

- How will the owners of the farm:
 - pay off debt?
 - fund their retirement?
 - purchase more land?
 - invest in equipment?

- Is there a succession plan for the farm?
 - Do one or more of the owners' heirs want to farm?
 - Are their multiple heirs, some who farm but others who don't? How can one generation be "fair" to the farmer and non-farmer heirs?
 - Are there no heirs who want to farm the property?

In order to properly address the above issues, we strongly encourage you to seek advice from **one or more qualified financial professionals**, *as early as possible in the application process*, regarding a FPP easement sale. These professionals have the expertise and personal familiarity with your individual circumstances to help you make informed decisions.

We also recommend that the financial offer you receive for the purchase of a FPP easement on your farm be brought to the attention of your professionals to determine how to maximize the net financial gain from the sale.

Examples of questions to ask your financial professionals:

1. How much (if any) will I pay in taxes as a result of the sale?
2. What (if any) will be the net gain from the sale?
3. What are the implications if the farm is or was part of an estate?
4. Should I make a "bargain sale"?
5. Should I do a "like-kind exchange"?
6. Should I get paid in installments?
7. Should I donate the farmland easement?



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For further reference on some of the prior questions and ideas, please see:

<http://farmlandinfo.org/selling-an-agricultural-easement-capital-gains-tax-implications-and-opportunities/>

<https://www.state.nj.us/treasury/taxation/inheritance-estate/inheritance.shtml>

<http://2020 AFT overview bargain sale taximplication.pdf>

<https://www.irs.gov/businesses/like-kind-exchanges-real-estate-tax-tips>

<http://s3.amazonaws.com/landtrustalliance.org/ConservationEasementTaxIncentiveBrochure2016.pdf>

We recommend that you provide the following documents when meeting with your financial advisor:

1. Original property deed from time of purchase and current deed, if different
2. Last year's tax return
3. If you inherited the property, all estate documents
4. If the property is held by a Corporation, Limited Liability Company, Partnership, or Trust, all related business documents to ensure they are accurate and up to date
5. Any mortgage documents – be sure to discuss if the intent is to pay off the mortgage or obtain a subordination of the mortgage to the Deed of Easement (document signed at closing). *It is also important to begin discussions with the lender early in the process if you will not be paying the mortgage off in full at closing, as not all lenders are willing to subordinate their mortgage to a Farmland Preservation Program deed of easement.*

After settlement, we recommend you provide your financial advisor with copies of:

1. Certification of market value report (if you didn't get a copy at settlement, request it from the easement holder)
2. A property appraisal if you are declaring a bargain sale. Please consult with your financial professional regarding the filing of other necessary tax documents.
3. SADC final approval resolution.
4. Documents received at closing, including the HUD statement and 1099 form

Note: Nothing contained in this document is intended to provide legal or tax advice



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