

Introduction

For newly constructed or reconstructed agricultural structures, New York's Real Property Tax Law (RPTL Section 483) allows a 10-year property tax exemption. Application for the exemption must be made within one year after the completion of such construction. The agricultural structures and buildings will be exempt from any increase in the property's assessed value resulting from the improvement.

Once granted, the exemption continues automatically for ten years. The exemption will terminate before the ten-year period if (1) the building or structure ceases to be used for farming operations, or (2) the building or structure or land is converted to a nonagricultural or non-horticultural use.

For certain limited-use agricultural structures and temporary greenhouses, the Real Property Tax Law (Sections 483-a and 483-c respectively) provides a permanent exemption. For Historic Barns, Sections 483-b provides a sliding scale exemption. These provisions are discussed later in this pamphlet.

Newly Constructed and Reconstructed Agricultural Structures - RPTL Section 483

How is eligibility determined?

Eligibility is determined by the assessor or board of assessors with whom the application is filed. If denied, the applicant has the right to an administrative review by the Board of Assessment Review. The following requirements must be met.

- The structure or building must be essential to the operation of lands actively devoted to agricultural or horticultural use.
- The structure or building must actually be used and occupied to carry out the agricultural or horticultural operations.
- The farmland must actually be used in bona fide agricultural or horticultural production carried on for profit.
- The farmland must not be less than five acres in area.
- An application for exemption must be filed within one year of completion of construction.

A structure, building or any portion **qualifies** for the exemption when it is used directly and exclusively either: (1) in the raising and production for sale of agricultural or horticultural commodities, or necessary for their storage for sale at a future time;

or (2) to provide housing for regular and essential employees and their immediate families who are primarily employed in connection with the operation of lands actively devoted to agricultural and horticultural use.

A structure, building or any portion **cannot qualify** if it is used for: (1) the processing of agricultural and horticultural commodities; (2) the retail merchandising of such commodities; (3) the storage of commodities for personal consumption by the applicant; or (4) the residence of the applicant or his immediate family.

The exemption applies only to a structure or building constructed or reconstructed after January 1, 1969 and before January 1, 2009.

Who can apply?

The owner of the building or structure for which the exemption is sought must use application form RP-483 available from the assessor, the County Director of Real Property Tax Services or the Office of Real Property Services (ORPS) website.

Where and when should the application be filed?

The application must be filed with the city, town, or county assessor on or before taxable status date. If the property is located in a village that assesses, a copy of the application must also be submitted to the appropriate village assessor.

When is a structure considered complete?

A building or structure should be considered "completed" when it can be used for its intended purpose.

What does agricultural or horticultural use mean?

The word "agricultural" means the art or science of cultivating the ground, the raising and harvesting of crops and the raising, breeding, and boarding of livestock, including horse boarding operations. The traditional meaning of the word "horticultural" is the cultivation of a garden or orchard, the science and art of growing fruits, vegetables, and flowers or ornamental plants from seed, cutting, or rootstock.

When would an agricultural structure or portion be disqualified for processing farm commodities?

A farm commodity is processed whenever something is done to the commodity to prepare it for market, as distinguished from raising or producing it. For example,

a building on a dairy farm in which cows are fed and milked would qualify as used directly and exclusively in the raising and production for sale of milk. However, buildings used for processing milk -- in which the milk is pasteurized or put into containers that are ultimately sold to the consumer -- would not qualify. The slaughtering of cattle is processing, as is the cleaning, sorting and packaging of fruits and vegetables. When the processing carried on in a building is only incidental to the main use of the building or the building is used for processing only on a limited basis, the building may be eligible for the exemption.

When would a building, structure or portion be disqualified for exemption on the basis of being used for the retail merchandising of farm commodities?

Any agricultural structure or portion that is used for the retail sale of an agricultural or horticultural product cannot qualify. A roadside stand or any store or building in which agricultural products are sold to the public is not eligible for the exemption.

What happens if only a portion of a building can qualify?

If only a portion of a building meets the requirements of the statute, then only that portion is eligible for the exemption.

What if a single building or structure combines both a farm use and a nonfarm use but the activities are so commingled that the portions devoted to each use cannot be separated?

The building would not qualify since the law requires that the building or portion be exclusively used for agricultural purposes. However, when the "nonfarm use" carried on in a building is only incidental to the main use of the building or the building is used for "nonfarm use" only on a limited basis, then the building may qualify for the exemption.

The exemption applies to housing for regular and essential employees and their immediate families who are primarily employed in connection with the operation of farmlands. Who would be considered regular and essential employees in order for farm worker housing to be exempt?

Regular employees are those who are usually and customarily hired for raising and producing a farm product. Essential employees are those without whose help a necessary aspect of farm production could not

take place. Employees can qualify as long as their duties are primarily connected with farming operations rather than with processing, retail sale of commodities or nonfarm operations. Housing for the immediate family of the farm owner is expressly excluded. Separate housing for children of the applicant may qualify if they are regular, essential employees of the farm operation without an ownership interest.

Are there any requirements with respect to the lands on which the structure is located in order to qualify the structure for exemption?

Yes, there are two major requirements. (1) The lands must be used for profitable agricultural or horticultural production. "Profitable" means the intent to make a profit although every year may not necessarily be profitable. (2) The lands must be not less than five acres in area.

Lands that are used for cultivating, raising or growing crops, fruits, vegetables, flowers, ornamental trees and plants or lands used for the feeding, breeding and management of livestock or poultry satisfy this requirement.

How is the amount of the exemption determined?

Eligible structures and buildings are exempt from taxation to the extent that the construction or reconstruction increases the assessed value of the parcel. The increase in assessed value because of the new construction or reconstruction is the amount of the exemption. This value is not determined by actual construction costs. The amount is set by the increase in value of the parcel because of the new construction.

What types of taxes are covered by the exemption?

The exemption applies only to county, city, town, village or school district property taxes. Special ad valorem levies and special assessments are not included. Examples of these are assessments for street, water or sewer improvements or levies on behalf of fire, water or sewer districts.

What happens if property upon which an exempt structure or building is located is sold during the ten-year exemption period?

The exemption will continue until the expiration of ten years from the year in which the exemption was originally granted, provided all of the statutory requirements continue to be met by the new owner.

