



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF TAXATION
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MEMORANDUM

TO: Municipal & County Assessors and County Tax Board Administrators & Commissioners

FROM: Patricia Wright, Deputy Director, Property Administration

DATE: March 11, 2015

SUBJECT: Gross Sales Minimum for Mixed-Use Properties under Farmland Assessment

As you may know, P.L. 2013, c. 43 amended the Farmland Assessment Act, increasing the minimum gross sales requirement for the first five acres of land in agricultural/horticultural use (not under an approved Woodland Management Plan, "WMP") to \$1,000, while retaining the \$500 requirement for the first five acres for woodlands under an approved WMP. The \$5.00 per acre requirement for agricultural/horticultural use (not under an approved WMP) and \$0.50 per acre requirement for woodlands under an approved WMP beyond the first five acres remained the same. This memorandum applies to properties with non-appurtenant woodland under an approved WMP, not to properties with appurtenant woodlands. Appurtenant woodland acres can only be valued under Farmland Assessment if the property first has five acres that otherwise qualify for Farmland Assessment, i.e., the minimum five acres necessary to qualify for Farmland Assessment cannot include appurtenant woodlands.

For mixed-use properties containing both non-appurtenant woodlands under an approved WMP and land in other agricultural/horticultural use, however, the law is silent as to which gross sales minimum would apply. The Division of Taxation has consulted the Department of Agriculture and the Division of Forestry in the Department of Environmental Protection to develop a policy so that these mixed-use properties are treated uniformly throughout the state.

The policies to be observed are as follows:

- Any mixed-use property that has **at least five acres** in agricultural/horticultural use (not non-appurtenant woodlands under an approved WMP) is required to produce a minimum of \$1,000 in annual gross sales for the first five acres.
- Mixed-use properties that have **less than five acres** in agricultural/horticultural use (not non-appurtenant woodlands under an approved WMP) and the remaining acreage is non-appurtenant woodland under an approved WMP are required to produce a minimum of \$500 in annual gross sales for the first five acres.

The Division of Taxation has considered but does not support using dominant use versus incidental use as indicative of which figure to apply as the minimum gross sales for the first five acres of a mixed-use property. With respect to dominant versus incidental use, current case law does not apply to the Chapter

43 amendments. It only concerns farm versus non-farm use and, therefore, is not a reliable indicator of usage to determine the minimum income pursuant to Chapter 43.

EXAMPLES:

1. On a 15 acre parcel of land, 6 acres are devoted to the raising of livestock and 9 acres are woodlands under an approved WMP. The minimum gross sales for the property would be \$1,009.50 (\$1,000 for the first 5 acres of agriculture, \$5.00 for the additional acre of agriculture, plus 9 x \$0.50 for the woodland acres).

2. On a 20 acre parcel of land, 3 acres are devoted to growing crops and 17 acres are woodlands under an approved WMP. The minimum gross sales for the property would be \$521.00 (\$500 for the first 5 acres of woodlands, 3 x \$5.00 for the agricultural acres, plus 12 x \$0.50 for the additional woodland acres).

3. On a 7 acre parcel of land, 4 acres are devoted to growing ornamental plants and 3 acres are woodlands under an approved WMP. Since the property does not have 5 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, despite there being more acres devoted to growing ornamental plants than to non-appurtenant woodlands. Since there are neither 5 acres devoted to non-woodlands agriculture nor 5 acres devoted to non-appurtenant woodlands, the first five acres necessary to qualify for Farmland Assessment must be a composite of the two. The Division of Taxation recommends including all woodland acres under an approved WMP as part of the first five acres needed for qualification. Thus, the minimum gross sales for the property would be \$510.00 (\$500 for the composite first 5 acres: i.e., 3 acres of woodlands and 2 acres of agriculture, plus 2 x \$5.00 for the 2 additional acres of agriculture).

If you have any questions, contact the Division of Taxation at (609) 292-7974 or (609) 292-7813.

PW:KB

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