

# BEGINNING FARMER TAX CREDIT

Program Guidelines | June 2020



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## Section I – Introduction and Purpose

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The Beginning Farmer Tax Credit Program was established under Article SVIII-H of the act of March 4, 1971 (P.L. No. 2) known as the Tax Reform Code of 1971 (“Tax Reform Code”) as amended by Act 65 of 2019 (the “Act”) for the purpose of providing tax credits to owners of agricultural assets who sell or rent agricultural assets to beginning farmers. This program is administered by the Department of Community and Economic Development in consultation with the Department of Agriculture and the Department of Revenue.

## Section II – General

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### A. Definitions

The following terms shall have the following meanings:

**“Agricultural Asset.”** Agricultural land, livestock, facilities, buildings and machinery used for farming.

**“Agricultural Production.”** The production for commercial purposes of crops, livestock and livestock products, including the processing or retail marketing of such crops, livestock or livestock products if more than 50% of such processed or merchandised products are produced by the farm operator. The term includes use of land which is devoted to and meets the requirements of and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the Federal Government.

**“Beginning Farmer.”**

1. Has demonstrated experience in the agriculture industry or related field or has transferable skills as determined by the Department in consultation with the Department of Agriculture.
2. Has not received Federal gross income from agricultural production for more than the ten most recent taxable years.
3. Seeks to engage in agricultural production in the commonwealth and intends to provide the majority of the labor and management involved in production.
4. Has received written certification from the Department confirming beginning farmer status.
5. Neither the beginning farmer nor the farmer’s spouse is a partner, member, shareholder, or trustee of the owner of the agricultural assets from the farmer whom they wish to purchase or rent.

**“Beginning Farmer Certification.”** Written certification confirming beginning farmer status, as determined by the Department of Community and Economic Development and the Pennsylvania Department of Agriculture.

**“Department.”** The Department of Community and Economic Development of the commonwealth.

**“Farming.”** The active use, management, and operation of real and personal property for agricultural production.

**“Lease.”** A written agreement between parties for the lease of real property on which farming occurs.

**“Owner of Agricultural Assets.”** An individual, trust, or pass-through entity that is the owner in fee of agricultural land or has legal title to any other agricultural asset. The term does not include an equipment dealer, livestock dealer, or comparable entity that is engaged in the business of selling agricultural assets for profit and that is not engaged in farming as its primary business activity.

**“Tax Credit.”** The beginning farmer tax credit authorized by Article XVIII-H of the Tax Reform Code.

## **B. Eligibility**

To be eligible for a Beginning Farmer Tax Credit, the applicant must:

1. Be an individual, trust, or pass-through entity that is the owner in fee of agricultural land or has legal title to any other agricultural asset.
2. Sell or lease agricultural assets to a Beginning Farmer.
3. Be subject to Personal Income Tax (Article III of the Tax Reform Code).
4. Be in state tax compliance with the laws and regulations of the commonwealth as determined by the Department of Revenue.

To be eligible for a “Beginning Farmer” certification, the applicant must be a person who:

1. Has demonstrated experience in the agriculture industry or related field or has transferable skills as determined by the Department in consultation with the Department of Agriculture.
2. Has not received federal gross income from agricultural production for more than the 10 most recent taxable years.
3. Intends to engage in agricultural production within the borders of this commonwealth and to provide a majority of the labor and management involved in that agricultural production.
4. Has obtained written certification from the Department confirming Beginning Farmer status.
5. Is not, and whose spouse is not, a partner, member, shareholder or trustee of the owner of agricultural assets from whom the person seeks to purchase or rent agricultural assets.

## **Section III – Application and Approval Process**

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The owner of agricultural assets shall submit an application to the Department by accessing [www.esa.dced.state.pa.us](http://www.esa.dced.state.pa.us).

### **A. Beginning Farmer Tax Credit Application Requirements**

If an Owner of Agricultural Assets wishes to qualify for the Beginning Farmer Tax Credit Program, the Owner of Agricultural Assets must submit an application to the Department with the following information:

1. The identity of the certified Beginning Farmer to whom the agricultural assets are sold or rented.
2. Specify whether the Beginning Farmer is a brother, sister, ancestor or lineal descendant.
3. A copy of the written certification from the Department confirming Beginning Farmer status.
4. Legal description and assessed value of the land the Owner of Agricultural Assets will sell/rent to the Beginning Farmer and/or description of the Agricultural Asset to be sold/rented to the Beginning Farmer.
5. Federal Form 1040 Schedule F for the most recent fiscal year. The Owner of Agricultural Assets must demonstrate that the majority of their income is based in farming activity. An Owner of Agricultural Assets who makes the majority of their income through equipment dealing, livestock dealing, or a comparable entity is not eligible.
6. A copy of the sale, rental, or lease agreement which includes the following information:
  - a. Names of the Beginning Farmer and Owner of Agricultural Assets
  - b. Effective date of the agreement
  - c. Legal description of the land and/or any other relevant description of the Agricultural Assets
  - d. Payment details including rental payments and schedule or purchase price of the Agricultural Asset
  - e. Signatures and dates from both the Beginning Farmer and Owner of Agricultural Assets
7. Attest within the application that a State Tax Compliance Clearance Form was filed with the Department of Revenue. The Electronic Clearance Form for Tax Credits can be accessed here: [www.revenue.pa.gov/taxcredits](http://www.revenue.pa.gov/taxcredits).
  - The Department will authorize the Department of Revenue to perform a State Tax Compliance Clearance. Should an applicant be found to be out of compliance, notice will be sent to the applicant with instructions on how to rectify any compliance issues. The applicant must resolve non-compliance issues within the required time period in order to be eligible for the program.

### **B. Beginning Farmer Certification Requirements**

To obtain certification as a Beginning Farmer, an individual must submit an application to the Department. The application will be located on the Department's website and shall include the following information:

1. Proof of experience in the agriculture industry or related field.
2. Verification that the applicant has not received Federal gross income from agricultural production for more than the ten most recent taxable years.
3. Confirmation that the applicant seeks to engage in agricultural production in the commonwealth and intends to provide the majority of the labor and management involved in production.

4. Description of the type of farming operation the applicant will be conducting.
5. Confirmation that neither the applicant nor their spouse is a partner, member, shareholder, or trustee of the Owner of the Agricultural Assets from whom the applicant wishes to purchase or rent.
6. Projected earnings statements to demonstrate the profit potential for the farming conducted by the applicant.
7. Verification that the farming conducted by the applicant will be a significant source of income for the applicant; may include crop or livestock contracts, dairy paperwork, or cash flow analysis.
8. Verification that the applicant will, if certified as a Beginning Farmer by the Department, notify the Department within 60 days if the applicant no longer meets the certification and eligibility requirements within the three-year certification period, in which case eligibility for Tax Credits ends.
9. Verification that the applicant is not engaged in farming by means of a joint business venture.
10. Verification and documentation as necessary to meet other eligibility requirements as may be established by the Department.

### **C. Approval Process**

Beginning Farmer Certifications will be reviewed by the Department in consultation with the Department of Agriculture on an on-going basis throughout the year.

The Beginning Farmer Tax Credit application period will open on February 1 annually and credits will be allocated on a first-come, first-served basis except that recertifications for the second and third years of Tax Credits have first priority.

Beginning on January 15th, the Department will accept recertification applications.

After an Owner of Agricultural Assets has submitted an application to qualify for the Beginning Farmer Tax Credit Program, the Department shall notify the applicant if the requirements of section 1803-H of the Tax Reform Code have been met for the current fiscal year.

For an application to be approved, the applicant must have (i) filed all required state tax reports and returns for all applicable tax years and (ii) paid any balance of state tax due as determined by assessments or by determination of the Department of Revenue and not under timely appeal.

The Tax Credit may be claimed only after the approval and certification by the Department and is limited to the amount stated on the certificate issued under section 1804-H of the Tax Reform Code. The Department shall review the application of a Tax Credit in consultation with the Department of Agriculture and the Department of Revenue.

### **D. Renewal of Status**

The certification of a Beginning Farmer is valid for the year of the certification and the two following years. After this time, the Beginning Farmer must apply to the Department for a new certification.

Beginning Farmers must complete a recertification in Year 2 and Year 3 to confirm that the original eligibility criteria remain satisfied. The Beginning Farmer recertification application will be available on the Department's website and is due by October 1st of the year for which the Tax Credit is sought. Owners of Agricultural Assets who wish to apply for tax credits in Year 2 and Year 3 of a lease agreement must reapply each year to the Department.

## **Section IV – Termination of Rental Agreement**

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An Owner of Agricultural Assets or a Beginning Farmer may terminate a rental agreement for reasonable cause upon approval of the Department. The Department shall consider which party is at fault in the termination of the agreement. If the Department determines the Owner of Agricultural Assets did not have a reasonable cause, the Owner of Agricultural Assets must repay all Tax Credits received as a result of the rental agreement to the commonwealth. The repayment is additional income tax for the taxable year in which the Department makes its decision.

The Owner of Agricultural Assets is responsible for reporting the termination of the rental agreement and submitting any relevant documentation. Such documentation may include, but is not limited to, a copy of the termination agreement, a death certificate, or a court order.

## **Section V – Beginning Farmer Tax Credit Amounts and Limitations**

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1. The Department may allocate no more than \$5,000,000 for the taxable year beginning after December 31, 2019.
2. The Department may allocate no more than \$6,000,000 for the taxable years beginning after December 31, 2020.
3. An Owner of Agricultural Assets is eligible for allocation of a Tax Credit equal to:
  - a. 5% of the lesser of the sale price or fair market value of the agricultural asset, up to a maximum of \$32,000; or
  - b. 10% of the gross rental income of the first, second, and third year of the rental agreement, up to a maximum of \$7,000 per year.
4. The recertification of second and third-year Tax Credits have priority. Remaining Tax Credits shall be made available by the Department on a first-come, first-serve basis

## **Section VI – Issuance of Tax Credit Certificate and Use of Tax Credits**

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The Department will issue a Tax Credit Certificate to awardees within the program.

A recipient of a tax credit certificate may use the tax credits to offset their Pennsylvania Personal Income Tax liability on the Pennsylvania Income Tax Return, in proportion and not to exceed, the tax credits awarded on the tax credit certificate.

Limitations: Unused tax credits cannot be carried back, forward, transferred or sold. Unused tax credits cannot be used to obtain a refund. If the credits do not cover the full amount of the liability, the taxpayer is required to remit payment timely to the Department.

For education and outreach on this topic please see the Department of Revenue tax credit webpage: [www.revenue.pa.gov/taxcredits](http://www.revenue.pa.gov/taxcredits). For specific questions please contact 717-772-3896 or [ra-btftrevkoz@pa.gov](mailto:ra-btftrevkoz@pa.gov).

## **Section VII – Program Requirements**

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### **A. Nondiscrimination**

No assistance shall be awarded to a Qualified Taxpayer under this program unless the Qualified Taxpayer certifies that the Qualified Taxpayer shall not discriminate against any employee or against any person seeking employment by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the Pennsylvania Human Relations Act, which prohibits discrimination on the basis of race, color, religious creed, ancestry, age, sex, national origin, handicap or disability, or in violation of any applicable federal laws.

### **B. Conflict of Interest Provision**

An officer, director, or employee of an applicant who is a party to or has a private interest in a project shall disclose the nature and extent of the interest to the governing body of the applicant, and may not vote on action of the applicant concerning the project, nor participate in the deliberations of the applicant concerning the project.

### **C. Project Records**

The applicant must maintain full and accurate records with respect to the project and must ensure adequate control over related parties in the project. The program office requires access to such records, as well as the ability to inspect all work, invoices, materials, and other relevant records at reasonable times and places. Upon request of the Department, the applicant must furnish all data, reports, contracts, documents, and other information relevant to the project.

## **Section VI – Contacts**

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Program inquiries should be directed to:

Department of Community & Economic Development  
Center for Business Financing  
Beginning Farmer Tax Credit Program  
Commonwealth Keystone Building  
400 North Street 4th Floor  
Harrisburg Pennsylvania 17120-0225

Phone: (717) 787-7120

Fax: (717) 772-3581

E-mail: [ra-eitc@pa.gov](mailto:ra-eitc@pa.gov)

- These guidelines can be accessed on-line at [dced.pa.gov](http://dced.pa.gov).
- The Single Application for Assistance can be accessed on-line at [www.esa.dced.state.pa.us](http://www.esa.dced.state.pa.us).