

**WISCONSIN DEPARTMENT OF REVENUE
DIVISION OF INCOME, SALES, AND EXCISE TAX**

NOTICE OF PROPOSED GUIDANCE DOCUMENTS

Pursuant to sec. 227.112, Wis. Stats., the Wisconsin Department of Revenue, Division of Income, Sales, and Excise Taxes hereby seeks comment on the proposed guidance document listed in the table below.

SUBMITTING PUBLIC COMMENTS

Public comments on proposed or adopted guidance documents may be submitted online at: <https://www.revenue.wi.gov/Pages/contactUs/proposed-Guidance.aspx>.

DEADLINE FOR SUBMISSION

The period for public comment for proposed guidance documents ends 21 days after publication in the Administrative Register, unless the Governor approves a shorter commenting period.

Document Number	Document Title
100024	Farmland Preservation Credit - Common Questions

State of Wisconsin
Department of Revenue

Farmland Preservation Credit

This is a proposed guidance document. The document has been submitted to the Legislative Reference Bureau for publication in the Administrative Register for public comment as provided by sec. 227.112(1), Wis. Stats.

1. What are the major differences between Schedules FC and FC-A?
2. Which schedule should I use?
3. I'm buying some property. How can I find out if farmland preservation credit was claimed on it?
4. Currently, my farmland is subject to a farmland preservation agreement. I'm wondering if I can get my farmland out of the agreement and, if so, how much do I have to pay as a result?
5. I'm doing my taxes and I know I have to include the amount of farmland credit I received last year in taxable income. How can I find out how much farmland credit I received?
6. I received a letter saying you need copies of my real estate tax bills. Aren't they attached to my return?
7. The Farmland Preservation Program tax credit forms ask whether land is in compliance with state soil and water conservation plans and standards. Where can I find out more about what is required?
8. I received a letter asking for a copy of my Certificate of Compliance. What is this and why do you need it?
9. What landowners will need a Certificate of Compliance (CoC) number?
10. What's the difference between an executed and an unexecuted farmland preservation agreement?
11. I rent out my farmland. How do I determine if my farmland meets the gross profits requirement?
12. I bought some farmland several years ago and wasn't aware of the farmland preservation credit program. Can I go back to past years and amend my tax returns to claim this credit?
13. I sold some property during the year. Can I claim farmland preservation credit for those parcels?
14. I have an agreement from before July 1, 2009. How can I claim farmland preservation credit on Schedule FC-A?

15. How should I determine if the land I own is located in a farmland preservation zoning district?

1. What are the major differences between Schedules FC and FC-A?

Category	Schedule FC	Schedule FC-A
<p>Qualifications:</p>	<ul style="list-style-type: none"> ○ Claimant must be subject to a farmland preservation agreement entered into prior to July 1, 2009 	<ul style="list-style-type: none"> ○ Claimant must have an ownership interest in a farm that is covered by a farmland preservation agreement entered into on or after July 1, 2009, or is located in a farmland preservation zoning district
	<ul style="list-style-type: none"> ○ The agreement must be in effect on or after July 1, in the claim year 	<ul style="list-style-type: none"> ○ If acres qualify under a farmland preservation agreement, the agreement must be in effect on December 31, in the claim year
	<ul style="list-style-type: none"> ○ The prior year property taxes for the property on which the claim is based must have been paid in full 	<ul style="list-style-type: none"> ○ The claimant must have been the owner of the farm for which the credit is being claimed at the end of the taxable year
	<ul style="list-style-type: none"> ○ The claim must be based on at least 35 acres of farmland 	<ul style="list-style-type: none"> ○ No minimum acreage requirement
	<ul style="list-style-type: none"> ○ Claimant must be in compliance with soil and water conservation plans and standards for any farmland at the time the claim is filed 	<ul style="list-style-type: none"> ○ Claimant must be in compliance with soil and water conservation plans and standards on this farm as of the end of the taxable year to which the claim relates
<p>Credit Computation:</p>	<ul style="list-style-type: none"> ○ Credit is a percentage of a base amount determined using the claimant's household income and property taxes 	<ul style="list-style-type: none"> ○ Credit is a flat per-acre payment of \$5, \$7.50, or \$10, based on the claimant's qualifying acres
	<ul style="list-style-type: none"> ○ Maximum credit allowed is \$4,200 	<ul style="list-style-type: none"> ○ No limitation on the amount of credit

2. Which schedule should I use?

A farmland preservation credit claim may be filed using Schedule FC-A, Schedule FC, or both. However, a credit may not be claimed on the same acreage using both Schedule FC-A and Schedule FC.

- IF you have exclusive ag zoning (A-1 EX) and a new agreement or modified agreement (since July 1, 2009)

Then you should file your claim using the Schedule FC-A and \$10 per acre.

- IF you have exclusive ag zoning (A-1 EX) and no agreement

Then you should file your claim using the Schedule FC-A and \$7.50 per acre.

- IF you have a new agreement or modified agreement (since July 1, 2009)

Then you should file your claim using a Schedule FC-A and \$5.00 per acre.

- IF you have exclusive ag zoning (A-1 EX) and an old agreement (before July 1, 2009)

Then you may choose to claim the credit on a Schedule FC (at 80% of calculated credit based on having an agreement) or a Schedule FC-A (at 7.50 per acre based on exclusive ag zoning).

- IF you have an agreement entered into before July 1, 2009

Then you should file your claim for the credit on a Schedule FC at the 80% level.

- IF you have land under an agreement from before July 1, 2009 and other land that is in exclusive ag zoning, you may choose to:

A. Claim the credit on a Schedule FC using the multiple municipality proration worksheet or

B. Claim the credit for the land under an agreement on a Schedule FC at 80% of calculated credit and claim the credit for the land under zoning on the Schedule FC-A at \$7.50 per acre.

If you don't know how your land is zoned, contact your county zoning office.

Note: A few agreements were under application prior to July 1, 2009, but were not executed until after that date. One of these agreements is considered entered into prior to July 1, 2009, if 1) the application for the agreement was submitted to the county clerk between January 1, 2008, and June 30, 2009, and 2) the agreement was entered into on or after July 1, 2009.

3. I'm buying some property. How can I find out if farmland preservation credit was claimed on it?

The department cannot provide that information to anyone but the person who claimed the credit. You must contact the property owner to obtain the information.

4. Currently, my farmland is subject to a farmland preservation agreement. I'm wondering if I can get my farmland out of the agreement and, if so, how much do I have to pay as a result?

The payback portion of the program is handled by the Department of Agriculture, Trade, and Consumer Protection (DATCP). Contact DATCP at (608) 224-4621 or DATCPWorkingLands@wisconsin.gov. DATCP will inform you of whether the farmland can be taken out of the program. DATCP will send you the necessary forms to complete. In general:

- For agreements applied for prior to July 1, 2009, the landowner must pay back the last ten years of tax credits received by any owners of the land.

- For agreements applied for after July 1, 2009, or agreements modified after that date, the landowner must pay a conversion fee that is equal to 3 times the per acre value, times the number of acres being terminated or released from the agreement, for the year in which the farmland preservation agreement is terminated or the land is released, of the highest value category of tillable cropland in the city, village, or town in which the land is located, as specified by the Department of Revenue under s. 73.03(2a), Wis. Stats.

5. I'm doing my taxes and I know I have to include the amount of farmland credit I received last year in taxable income. How can I find out how much farmland credit I received?

You should review all tax returns filed during the previous year, including any late and amended returns, and any adjustment notices you received from the department to determine how much farmland preservation credit (FPC) was received. If you need this information, you must write to the Department of Revenue, PO Box 8906, Madison, WI 53708-8906. This information cannot be furnished over the telephone, by email, or by fax.

6. I received a letter saying you need copies of my real estate tax bills. Aren't they attached to my return?

When we request copies of the tax bills, it is for one of the following reasons:

- No real estate tax bills were attached;
- Copies of tax bills for the wrong years were attached;
- Copies of the tax receipts instead of the actual tax bills were attached;
- Copies of the tax bills were incomplete; or
- Copies of the tax bills were illegible.

We need copies of the actual real estate tax bills because they are the only documents that provide all of the necessary information, such as the year, name, whether there are any unpaid prior year taxes, whether there are any improvements on the parcel, and the assessed values. Tax receipts provide some, but not all, of this information.

Often, the tax bills attached are for the taxes the claimant paid during the claim year, not the taxes levied during the year. While a cash-basis claimant may deduct the taxes paid during the year as an expense on federal Schedule E or F, claimants must use the taxes levied during the claim year for farmland preservation credit purposes.

The tax bills that are submitted need to be complete copies. If parts of the parcel numbers or legal descriptions are cut off, we may not be able to determine if those parcels are subject to farmland preservation credit. If photocopies are too light to read or are blurry, we have the same problem.

7. The Farmland Preservation credit forms ask whether land is in compliance with state soil and water conservation plans and standards. Where can I find out more about what is required?

The farmland preservation credit is available to eligible land owners located in farmland preservation zoning districts and/or who own land covered by a farmland preservation agreement. Eligible farm owners who choose to claim this tax credit on their income tax return must meet state soil and water conservation standards on the entire farm. More

information for farmers and other landowners can be found at the Department of Agriculture, Trade and Consumer Protection website and at:

https://datcp.wi.gov/Pages/Programs_Services/FPTaxCredits.aspx.

Contact your county Land Conservation Department if you have more questions.

8. I received a letter asking for a copy of my Certificate of Compliance. What is this and why do you need it?

The Certificate of Compliance is issued by the county land conservation department to certify that you are in compliance with soil and water conservation plan and standards and to verify the number of acres certified at each rate.

9. What landowners will need a Certificate of Compliance (CoC) number?

All landowners who claim the farmland preservation tax credit with Schedule FC-A beginning in 2016 will need a CoC number. This includes landowners who claim under a farmland preservation zoning ordinance and landowners who have a farmland preservation agreement signed or modified after July 1, 2009. Landowners will need to enter this number on Schedule FC-A in order to claim the credit in tax years 2016 and after.

For more information on the CoC number, visit DATCP's Farmland Preservation Program Soil and Water Conservation Compliance FAQs at

<https://datcp.wi.gov/Pages/Publications/LandWaterFactSheets.aspx>.

10. What's the difference between an executed and an unexecuted farmland preservation agreement?

An executed agreement has all information in the box on the front of the agreement, as well as the first paragraph blanks, completed by staff from the Department of Agriculture, Trade, and Consumer Protection. The back of the agreement is also signed by them in two different areas. An unexecuted agreement is blank in some of these areas. A copy of the executed agreement must be attached to the claim or on file at the Department of Revenue. A copy may be requested if one is not available to the department.

11. I rent out my farmland. How do I determine if my farmland meets the gross profits requirement?

You should contact the renter to find out what crops are being produced on your farmland and what happens to those crops. If the crops are sold outright, you would use those amounts to determine whether the Schedule FC gross profits requirement or Schedule FC-A gross revenues requirement was met.

If the crops being produced on your farmland are fed to cattle which in turn produced milk that was sold, the renter should compute a ratio to prorate the milk receipts. The numerator of the ratio is the amount of crops produced on your farmland which was fed to those cattle, and the denominator is the total amount of crops fed to those cattle. Multiply the milk receipts by this ratio to arrive at an approximate amount of profits considered produced on your farmland.

12. I bought some farmland several years ago and wasn't aware of the farmland preservation credit program. Can I go back to past years and amend my tax returns to claim this credit?

Possibly. If the farmland is already subject to a farmland preservation agreement, you must know the effective date of that agreement. In order to claim the farmland preservation credit (FPC) using Schedule FC, the agreement must have been in effect on July 1 of the claim year. In order to claim the FPC using Schedule FC-A, the agreement must have been in effect on December 31 of the claim year. If there is no farmland preservation agreement in effect for that year, no credit for past years can be allowed based on having an agreement.

If the land is included in a farmland preservation zoning area, the zoning classification must have been in effect at the end of the taxable year to which the claim relates.

For farmland subject to exclusive agricultural zoning or to a farmland preservation agreement, you must have had a soil and water conservation plan on file with the county conservation office and been following that plan for those years. With either document, you must also have met all other FPC requirements for each applicable claim year. The FPC claims must be filed no later than 4 years after the unextended due date of that year's income tax return. For example, for calendar year filers, the 2015 Schedule FC must be filed (with an income tax return form) by April 15, 2020. This is subject to the normal rules for filing amended returns.

13. I sold some property during the year. Can I claim farmland preservation credit for those parcels?

Schedule FC filers:

If the farmland is subject to a farmland preservation agreement entered into prior to July 1, 2009, and not modified after July 1, 2009, you may claim that portion of the taxes allocated to you on the closing statement, provided you met all other FPC requirements.

Schedule FC-A filers:

You must have been the owner of the farm for which the credit is being claimed at the end of the taxable year, as well as have met all other FPC requirements.

14. I have an agreement from before July 1, 2009. How can I claim farmland preservation credit on Schedule FC-A?

The farmland preservation agreement must be modified to claim the credit on Schedule FC-A. You can contact the Department of Agriculture, Trade and Consumer Protection (DATCP) to obtain the application to modify the agreement. In general, the modified agreement would require the expanded soil and water conservation requirements and require a conversion fee to remove lands from the agreement. Contact DATCP at (608) 224-4621 or DATCPWorkingLands@wisconsin.gov.

15. How should I determine if the land I own is located in a farmland preservation zoning district?

You should contact the local planning and zoning office to determine whether the land is within the certified farmland preservation zoning district. This could be at the county, town, city, or village government.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of January 3, 2020: Sections 71.58, 71.59, 71.60, 71.61, 71.613, 71.75, 71.78, 73.03, 91.66, 91.80 and 91.84, Wis. Stats., sec. 91.19, Wis. Stats. (2007-08), and sec. Tax 2.08, Wis. Adm. Code.

Laws enacted and in effect after January 3, 2020, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to January 3, 2020, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

FOR QUESTIONS OR COMMENTS CONTACT:

WISCONSIN DEPARTMENT OF REVENUE

Farmland Preservation Credit Taxpayer Assistance

PO Box 8906

Madison, WI 53708-8906

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Email additional questions to DORFarmlandPreservationCredit@wisconsin.gov

Guidance Document Certification: <https://www.revenue.wi.gov/Pages/Certification-Statement.aspx>

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