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The Qualification of Rented Land for Farm Value Assessment in New York

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THE QUALIFICATION OF RENTED LAND FOR FARM VALUE ASSESSMENT IN NEW YORK

By

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by William R. Bryant*

New York's Agricultural District Law permits land in an agricultural district or under an agricultural commitment to have any excess above its value for farming exempt from property taxation. To have his land assessed at farm value, the landowner must own ten or more acres used in the preceding two years for the production for sale of agricultural products having a gross average sales value of $10,000 or more per year.

The treatment of rented land under the $10,000 income requirement has been an issue since the District Law was enacted in 1971. Rented parcels are often not large enough or used intensively enough to produce crops with a market value of $10,000 or more, and most landlords cannot now claim any share of the final value of livestock or livestock products produced and sold by the farmers who rent their land. Only the person owning the land on which the livestock is housed may claim livestock rather than crop values. This usually is the farmer himself, since most dairymen and other livestock producers own their headquarters. As a result much land used for commercial farming within agricultural districts cannot now be qualified for a farm value assessment.

This paper discusses the qualification of rented land for farm value assessment in New York. The first part of the paper reviews the provisions of the Agricultural District Law relating to farm value assessment and then describes a currently proposed amendment to the District Law that would change the method of computing gross income on rented land for the purpose of meeting the gross income eligibility requirement. The second part uses data from a study of rented land in Columbia County, New York, to determine how much rented land would qualify for farm value assessment under various assumptions.1/

1/ Bryant, Farmland Ownership and Rental Arrangements in Columbia County, New York.

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* William R. Bryant was research specialist in land economics in the Department of Agricultural Economics at Cornell University until his resignation in July 1976 to become a partner in farming with his father.

Present Provisions

Section 305 of the Agricultural District Law spells out the farm value assessment qualification requirements for land in an agricultural district. These requirements are as follows:

> "Any owner of not less than ten acres of land used in agricultural production within an agricultural district, which land had been used in the preceding two years for the production for sale of agricultural products of a gross average sales value of ten thousand dollars or more, shall be eligible for an agricultural value assessment on such land pursuant to this section. If an applicant owning not less than ten acres rents land from another for use for agricultural production, the gross sales value of the agricultural products produced of such rented land shall be added to the gross sales value of agricultural products produced on the land of the applicant for purposes of determining eligibility for an agricultural value assessment on the land of the applicant."2/

Section 306 of the District Law spells out similar requirements for land that may be put under an agricultural commitment outside of an agricultural district. These requirements are as follows:

> "Any owner of not less than ten acres of land used in agricultural production, which land had been used in the preceding two years for the production for sale of agricultural products of a gross average sales value of ten thousand dollars or more, may make a commitment on a form to be prescribed by the state board of equalization and assessment to continue to use such land exclusively for agricultural production for the next succeeding eight years. If an applicant owning not less than ten acres rents land from another for use for agricultural production, the gross sales value of the agricultural products produced on such rented land shall be added to the gross sales value of agricultural products produced on the land for the applicant for purposes of determining eligibility for an agricultural value assessment on the land of the applicant."3/

The ten acre requirement used in New York is in line with acreage requirements used in other states. The farm value assessment law in nineteen states

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2/ Bryant and Conklin, Legislation to Permit Agricultural Districts in New York, As Amended Through 1975, p. 11.

3/ Ibid, p. 15.

and two provinces of Canada have minimum acreage eligibility requirements. These requirements range from two acres for land within a municipality in British Columbia to 20 acres in Pennsylvania.[4] The most frequent requirements are five and ten acres.[5]

Compared to other states and provinces, New York's $10,000 gross income requirement is by far the most stringent. The farm value assessment law in fourteen states and the Province of New Brunswick have minimum income eligibility requirements. The most typical requirement is for a gross income averaging $500 or $1,000 over a specified number of years.[6] New York's gross income requirement was purposedly set at a high level in order to limit the use of farm value assessment to bonafide farmers. As we shall see, the income requirement is much more restrictive than the acreage requirement.

The $10,000 gross income figure in New York is based on the market value of farm products sold. Since value is increased for most crops when they are fed to livestock, a livestock farmer, such as a dairyman, is more likely to be able to meet the $10,000 requirement on a given area of land than is true for a farmer who sells his crops without feeding them to livestock.

Most full-time farmers in New York, even cash-crop farmers, actually have little difficulty in meeting either the ten acre or $10,000 gross income requirements on land they own. And if they do have difficulty, they are permitted to use the value of the farm products they produce on rented land to reach $10,000. (The owner of the rented land may also use the value of products produced on his land to meet the $10,000 requirement for qualifying his land for a farm value assessment.)

Owners of rented land, on the other hand, are likely to have difficulty in attaining the income requirement. As the law now is being interpreted by the State Board of Equalization and Assessment, no landowner may value the crops grown on his land at livestock values unless they are converted to livestock and livestock products on that land. If the owner rents to a farmer whose barns are elsewhere, the crops produced on this owner's land must be valued only at what they would have sold for when they left the land. This means that in areas where renting is common much land cannot be qualified for farm value assessments even where nearly all land is used for highly productive commercial farming.

4/ Pennsylvania's Act 515 has a 20 acre eligibility requirement. The state's more recently enacted Act 319 has a ten acre requirement.

5/ Gloudemans, Use-Value Farmland Assessments: Theory, Practice, and Impact, p. 22.

6/ Ibid, p. 22.

It would be possible, of course, to drop the $10,000 requirement. Those who framed the agricultural district law, however, were much concerned lest the law encourage in any way further escalation of the speculative activities that are destroying agriculture in many areas where wall-to-wall urban development cannot be realistically anticipated for many decades. If nonfarm owners can qualify their land for a farm value assessment with little effort, cost, or risk, they will be encouraged to bid strongly for farmland.

Nonfarm ownership of rural land usually results in lowered farm use efficiency, even when the land is rented to farmers, under the conditions that prevail in much of New York State. Heavy and continuous capital investments in drainage, stone removal, barns, silos, and like improvements are needed for most types of farming in New York. Nonfarm owners rarely are willing to make these investments and once the speculative fever has developed in an area, even farmers often discontinue their investment programs.

This line of reasoning, of course, could be used as well for arguing that no concessions should be made to nonfarm landowners under the present $10,000 requirement. Farmers in the more urbanized parts of the state have pressed, however, for such concessions. They point out that a large part of the land in those areas already is owned by nonfarmers and they argue that they can more easily convince these owners that they should rent their holdings to farmers if such renting will bring them a reduction in taxes.

A counter argument holds that high taxes should forcibly encourage nonfarm landowners to rent their holdings in order to help pay the taxes. Others fear, however, that high taxes will force the owners to try some form of premature development that will destroy the potential usefulness of their land for farming and leave deteriorating structures and high public service demands.

Since all of these points of view have some validity and support, there is pressure for a compromise. A currently proposed compromise would involve a modification in the way the $10,000 limit is applied to nonfarm landowners.

Proposed Amendment[7/]

The Department of Agriculture and Markets has proposed an amendment to the Agricultural District Law that would establish a formula for allocating annual agricultural production on rented land between the landlord and the tenant for the purpose of determining eligibility for farm value assessment. According to this proposal, the landlord must enter into a written lease arrangement that insures the farm operator use of the rented land for at least three consecutive years. If a written lease is in force, the landlord could than be assigned a proportion of the farm operator's total production

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7/ Department of Agriculture and Markets, Legislative Proposal #27, October 28, 1975. A memorandum related to this proposed amendment appears in the Appendix. This legislative proposal was introduced in 1976 and became Senate Bill 8690. It was passed by the legislature but vetoed by Governor Carey.

value, both crop and livestock, equal to the relationship the rented acreage bears to the total acres farmed by the operator. If no written lease is in force, the landlord is assigned only the market value of the agricultural products actually produced on his land as at present. This proposal also provides that, under a lease arrangement, any excess production from rented land not needed by the landlord to qualify for an exemption can be used by the farm operator to qualify. (At present the farmer can use the value of all production on rented land to qualify.)

This proposed amendment would have little effect on full-time farmers, most of whom generate more than sufficient income to meet the $10,000 eligibility requirement for land they own. Consequently, they would not be adversely affected by allocating a portion of their total gross income to those from whom they rent land.

As a result of this proposal, a substantially higher number of landlords and a larger amount of rented acreage would be eligible for farm value assessments under the Agricultural District Law. The landlord group most directly affected by this amendment would be those who rent their land to livestock producers, primarily dairy farmers. In the case of dairy farming, the value of milk sold may be as much as six times the value of crops grown on the farm.

A written lease would have distinct advantages. It would help reduce the uncertainty associated with the renting of land and thus would promote more efficient farming. Various provisions in the lease arrangement could be used by the farmer to protect himself in the event the arrangement were prematurely terminated.

Case Example

Data from a recent survey in Columbia County, New York, were used as the basis for estimating the amount of rented land that would qualify for farm value assessments under the proposed amendment as outlined above and under other possible changes in the law.8/ The 61 full-time farmers in the survey operated a total of 16,575 acres (Table 1). Part-owners -- farmers who own some and rent some -- were the most important tenure group.

More than one-third of the land operated by the 61 farmers in the survey was rented (Table 2). Part-owners and full tenants rented a total of 6,191 acres. Of particular interest to the discussion in this paper is the 5,386 acres, nearly one-third of the land in the survey, that was rented by part-owner farmers. The 37 part-owner farmers in the survey rented a total of 126 different parcels. (Under present law, at least one of the landlords

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8/ Bryant, Farmland Ownership and Rental Arrangements in Columbia County, New York.

Table 1.

Classification of Farmers by Tenure, 61 Sample Farms, Columbia County, 1975

Tenure	Number of Farmers	Cropland Acres
Full owner	21	2,913
Part owner	37	12,754
Tenant	3	908
Total	61	16,575

Table 2.

Owned and Rented Cropland, 61 Sample Farms, Columbia County, 1975

	Cropland	
	Acres	Percent
Owned	10,384	62.6
Rented	6,191	37.4
Total	16,575	100.0

who rent to a full tenant can claim all of the tenant's sales as a basis for qualifying his land for a farm value assessment, since the headquarters for any full tenant's livestock enterprise must be on one of the rented parcels.)

An estimation was made of how many of the 126 parcels and how much of the 5,386 acres rented by part-owners would be eligible for a farm value assessment if all of it were either in an agricultural district or signed up under a commitment. Information on the specific crop uses of rented land was obtained from the sample farm operators. Gross income per acre estimates were then determined on the basis of five year average yields and prices (Table 3). The use of five year average yields and prices provides a general picture of the effect of income eligibility requirements. In reality, only production in the immediately preceding two years may be considered in determining eligibility.

Based on the existing ten acre and $10,000 requirements under the Agricultural District Law, 80 percent of the rented parcels in the survey could not have qualified for farm value assessment (Table 4). The 101 non-qualifying parcels represented over 60 percent of the acreage rented by the 37 part-owner farmers and over 20 percent of the total acreage operated by all 61 farmers in the survey.

The number of rented parcels and the acreage of rented land that would qualify for farm value assessment under various gross income requirements was determined (Table 5). Lowering the income requirement to $1,000, a level specified in the laws of many states, resulted in 85 percent of the parcels and 96 percent of the acreage rented by part-owners qualifying. Increasing the requirement to $30,000, a level that would still not be adverse to most full-time farmers, resulted in 98 percent of the rented parcels and 91 percent of the rented acreage not qualifying.

The acreage requirement was also varied to determine its effect on the number of parcels and the acreage of rented land that would qualify for farm value assessment (Table 6). Lowering the requirement to two acres resulted in all the rented parcels and all the rented acreage qualifying. Increasing the requirement to 100 acres resulted in 90 percent of the parcels and 70 percent of the acreage not qualifying.

As the eligibility requirements now stand, more of the rented parcels fail to qualify on the basis of income than on the basis of acreage -- 80 percent vs. 15 percent. The acreage requirement would have to approach 100 acres to become as restrictive as the $10,000 income requirement. Alternatively, the income requirement would have to be dropped to below $1,000 to become less restrictive than 10 acre requirement.

In Columbia County a high proportion of the landlords whose land was not eligible for farm value assessment were elderly people who were retired

Table 3.

Gross Income Per Acre, Selected Crops, New York, 1970-74

Crop	1970-74 Yield	1970-74 Price/Unit	1970-74 Gross Income per Acre	Acres Needed to Gross $10,000
Corn for grain	80.4 bu.	$ 2.15	$ 172.86	58
Corn for silage	12.8 T.	12.12	155.14	64
Small grains*	47.9 bu.	1.65	79.04	127
Alfalfa	2.6 T.	33.88	88.09	114
Mixed hay	2.0 T.	30.00	60.00	167
Pasture	1.0 T.	15.00	15.00	667
Sweet corn	69.0 cwt.	5.35	369.15	27
Snap beans	39.2 cwt.	14.74	577.81	17
Potatoes	237.0 cwt.	4.35	1,030.95	10
Apples	149.7 cwt.	9.90	1,482.03	7

* Yield and price/unit, assuming half oats and half wheat.

Source: New York Crop Reporting Service, New York Agricultural Statistics, 1974.

Table 4.

Farm Value Assessment Qualification of Rented Parcels,
Present Requirements of 10 Acres and $10,000,
126 Units Rented by 37 Part-Owner Farmers, Columbia County, 1975

	Units		Acres	
	Number	Percent	Number	Percent
Able to Qualify	25	19.8	1981	36.8
Not Able to Qualify	101	80.2	3405	63.2
Total	126	100.0	5386	100.0

Table 5.

Farm Value Assessment Qualification of Rented Parcels,
Qualification Under Various Gross Income Requirements,
126 Parcels Rented by 37 Part-Owner Farmers,
Columbia County, 1975

Requirement and Ability to Qualify	Parcels		Acres	
	Number	Percent	Number	Percent
$1,000 requirement				
Able to qualify	107	84.9	5170	96.0
Not able to qualify	19	15.1	216	4.0
Total	126	100.0	5386	100.0
$2,500 requirement				
Able to qualify	77	61.1	4531	84.1
Not able to qualify	49	38.9	855	15.9
Total	126	100.0	5386	100.0
$5,000 requirement				
Able to qualify	52	41.3	3516	65.3
Not able to qualify	74	58.7	1870	34.7
Total	126	100.0	5386	100.0
$10,000 requirement (the present one)				
Able to qualify	25	19.8	1981	36.8
Not able to qualify	101	80.2	3405	63.2
Total	126	100.0	5386	100.0
$15,000 requirement				
Able to qualify	15	11.9	1105	20.5
Not able to qualify	111	88.1	4281	79.5
Total	126	100.0	5386	100.0
$20,000 requirement				
Able to qualify	10	7.9	925	17.2
Not able to qualify	116	92.1	4461	82.8
Total	126	100.0	5386	100.0
$30,000 requirement				
Able to qualify	3	2.4	470	8.7
Not able to qualify	123	97.6	4916	91.3
Total	126	100.0	5386	100.0

Table 6.

Farm Value Assessment Qualification of Rented Parcels,
Qualification under Various Acreage Requirements,
126 Parcels Rented by 37 Part-Owner Farmers,
Columbia County, 1975

Requirement and Ability to Qualify	Parcels		Acres	
	Number	Percent	Number	Percent
2 Acre requirement				
Able to qualify	126	100.0	5386	100.0
Not able to qualify	0	0.0	0	0.0
Total	126	100.0	5386	100.0
5 Acre requirement				
Able to qualify	120	95.2	5370	99.7
Not able to qualify	6	4.8	16	0.3
Total	126	100.0	5386	100.0
10 Acre requirement (the present one)				
Able to qualify	107	84.9	5285	98.1
Not able to qualify	19	15.1	101	1.9
Total	126	100.0	5386	100.0
25 Acre requirement				
Able to qualify	80	63.5	4860	90.2
Not able to qualify	46	36.5	526	9.8
Total	126	100.0	5386	100.0
50 Acre requirement				
Able to qualify	43	34.1	3586	66.6
Not able to qualify	83	65.9	1800	33.4
Total	126	100.0	5386	100.0
100 Acre requirement				
Able to qualify	13	10.3	1639	30.4
Not able to qualify	113	89.7	3747	69.6
Total	126	100.0	5386	100.0

on fixed incomes.[9] Similar conditions exist elsewhere in the state. A special argument can perhaps be made for granting this group of landlords a farm value assessment and thereby preventing a forced sale of their land. Still, it might be a better decision in the long run if this group of landlords sold their land to neighboring farmers who are enlarging their businesses.

A final analysis of the Columbia County survey data involved determining the effect of the recently proposed amendment, referred to above, on the qualification of rented land for farm value assessments. Eighty-four parcels rented to 30 part-owner farmers in Columbia County were included in this analysis. Parcels that failed to meet the acreage requirement were not included. Gross incomes were estimated from data collected for the survey farms and recently published farm business summary information for Columbia and Dutchess Counties.[10]

Using such acreage allocation of the farm operator's total gross income as a basis for meeting the $10,000 income requirement for rented parcels resulted in more than four times the number of units and nearly three times the amount of acreage qualifying for farm value assessment for the sample farms in Columbia County (Table 7). Since rented acreage is generally used less intensively than owned acreage, allocating gross income on the basis of acreage may tend to overstate the gross income actually attributable to rented land. The major advantage of using an acreage allocation instead of a more sophisticated method is its simplicity.

In order for landlords to use an acreage allocation of the farm operator's gross income to qualify for farm value assessment under the amendment proposed in 1976, a written three year lease would have been required. Though written leases are generally not used, 60 percent of the landlords in Columbia County indicated they would sign a written lease if required to receive farm value assessment.

SUMMARY

The treatment of rented land for purposes of qualifying for farm value assessment has been an issue in New York State since the Agricultural District Law was passed in 1971. Much rented land cannot now qualify for such an assessment even though it is being used for commercial farming.

9/ Bryant, Farmland Ownership and Rental Arrangements in Columbia County, New York, p. 45.

10/ Smith and Roger, Columbia and Dutchess Counties: Farm Business Summary, 1974, p. 11.

Table 7.

Farm Value Assessment Qualification of Rented Parcels, Qualification Under Present and Proposed Methods of Determining Gross Income, 84 Parcels of 10 Acres or More Rented by 30 Part-Owner Farmers, Columbia County, 1975

Method and Ability to Qualify	Units		Acres	
	Number	Percent	Number	Percent
Market Value of crops only				
Able to qualify	11	13.1	1198	28.0
Not able to qualify	73	86.9	3086	72.0
Total	84	100.0	4284	100.0
Allocation of Total Gross Income on Basis of Acreage				
Able to qualify	48	57.1	3448	80.5
Not able to qualify	36	42.9	836	19.5
Total	84	100.0	4284	100.0

The research here reported revealed the extent of such nonqualifying lands in Columbia County and estimated the probable consequences of changing eligibility requirements and methods for computing gross income on rented land.

Eighty percent of the parcels and over 60 percent of the acreage rented by a sample of 37 part-owner farmers in Columbia County would be unlikely to qualify for a farm value assessment under interpretations of the law now in effect. The $10,000 gross income requirement is much more restrictive than the 10 acre requirement.

A currently proposed but recently vetoed amendment would permit a landlord, if he rented on a three-year written lease, to claim as the gross income on his land a share of the renter's total gross farm income proportionate to the share his land forms of all land used by the renter. Present legal interpretations restrict the landlord to the market value of the crops grown on his land, even though those crops actually were fed to livestock elsewhere on land used by the renter.

It was estimated that under this proposed amendment four times as many of the parcels of 10 acre or more, and three times as much of the acreage of the land rented by part-owner farmers in Columbia County would qualify for farm value assessments. It also was estimated that in this case the amendment would not reduce the eligibility of the farmers for a farm value assessment on land they own, though clearly in some instances it could do so. Arguments for and against the proposed amendment involve equity and land use affects as well as affects on the tax base of local communities.

APPENDIX

October 28, 1975

M E M O R A N D U M

TO: COUNSEL TO THE GOVERNOR

FROM: DEPARTMENT OF AGRICULTURE AND MARKETS

SUBJECT: LEGISLATIVE PROPOSAL #27

Purpose of bill:

To establish a formula for allocation of annual agricultural production on rented land as between landlord and tenant for the purpose of determining eligibility for the agricultural value assessment.

Summary of provisions of bill:

Under current law to be eligible for agricultural value assessment, the owner of at least ten acres of land must in the preceding year have had a gross agricultural production of $10,000 or more. (Agriculture and Markets Law Section 305, subd. 1, par. a; Section 306, subd. 1) This bill deals with the situation where a farmer-owner of land rents his land to another farmer. The bill establishes the formula whereby the production from the rented land is allocated between landlord and tenant for the purpose of determining the eligibility of each for the agricultural value assessment. The bill provides that:

(1) If there is a written instrument that assures the tenant the use of the rented land for at least three consecutive years, the lessor-owner shall be assigned a proportion of the tenant's total production equal to the relationship the rented acreage bears to the tenant's total acreage.

(2) If there is no such written instrument, the owner is assigned only the value of the agricultural products actually produced on the land. (E.g. - the value of alfalfa raised on the rented land, rather than a proportion of the value of milk from a dairy herd maintained by the tenant.)

(3) The bill also provides that if the lessor-owner of rented land does not need all or part of the value of production on rented land in order to qualify for the agricultural value assessment, the tenant may be assigned all or the remainder in order to qualify the tenant's own lands for the assessment.

Prior legislative history:

The provisions of this bill were proposed by the Department but not introduced during the 1975 session.

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Statements in support of bill:

This bill provides an inducement for lessors of farm land to give their tenants at least a three year commitment for use of the land since the value of production from land leased under such a written commitment can be utilized by the landlord in order to qualify himself for the agricultural value assessment. If no such written commitment is made, the lessor is only entitled to be assigned the actual value of the crop raised on the rented land. In the case of livestock operations, such as dairy, beef and sheep farms, the value of crops raised for feed is relatively low compared to the value of the ultimate product of the farm operation -- milk, beef and wool. Many of New York's 25,000 dairy farms consist in part of rented acreage which is used to raise feed crops essential to the overall operation of the dairy farm. Much rented land is also used for pasture in order to free better land for growing crops. Without rented land, many dairymen would not be able to maintain their herds at their present size. In most cases, the lessee of farm land easily qualifies for the agricultural value assessment. This bill gives the lessor a share of the benefit and so a greater inducement to lease his land for agricultural use.

Possible objections to bill:

That land is lowered in taxable value in some areas of the state.

Other State agencies interested:

State Board of Equalization and Assessment.

Known position of others respecting bill:

This bill is proposed by the Department at the request of the Agricultural Resources Commission. The Department supports the concept but not point #3 as stated above.

Budget implications:

None

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