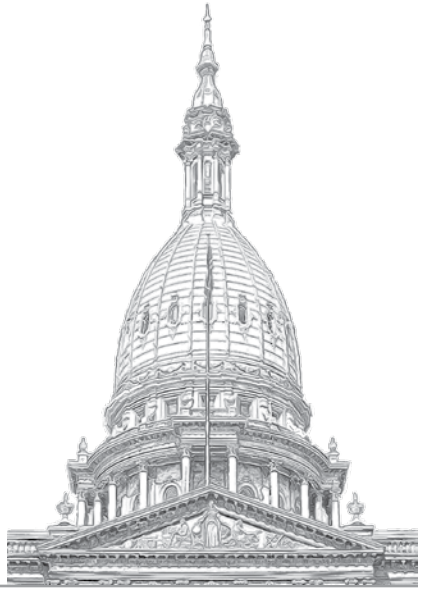
Individual Income Tax

2008 Michigan 1040CR-5

Farmland Preservation Tax Credit

Farmland and Open Space Preservation Act
Public Act 116 of 1974, as amended.



Forms and Instructions

Jennifer M. Granholm, Governor
Robert J. Kleine, State Treasurer

www.michigan.gov/taxes

Mailing Address for 2008

Mail your return and attachments to the address on your 2008 *Michigan Individual Income Tax Return* (MI-1040).

File Early!

File your return early since it will be processed in the order received. Attach all the requested information to prevent delays in processing your refund.

E-file and make it easy on yourself...

You must e-file your 2008 *Farmland Preservation Tax Credit Claim* (MI-1040CR-5) along with your MI-1040 and you must also file a completed *Homestead Property Tax Credit Claim* (MI-1040CR or MI-1040CR-2), even if you are not qualified to receive a credit. For more information, see page 15 or visit **www.MIfastfile.org** to find an authorized e-file provider near you, a list of resources offering this service, and information about free e-file services.

If you have more than 25 agreements, you may not take advantage of e-filing when claiming a farmland preservation tax credit.

You may e-file if you are filing for Property Development Rights.

This booklet is intended as a guide to help complete your return. It does not take the place of the law.

Important Information

Self Service Options

The Michigan Department of Treasury (Treasury) offers a variety of services designed to assist you, and most are available 24 hours a day, seven days a week.

IMPORTANT: To obtain information about your account using the Internet and Telephone Options listed below, you will need the following information from your return:

- Social Security number of the primary filer (the filer listed first on the return)
- Tax year of the return
- Adjusted gross income (AGI) or household income
- Filing status (single, married filing jointly, married filing separately).

Internet Options

www.michigan.gov/incometax

Find the following information on this Web site:

- Current year forms and instructions
- Answers to many tax preparation questions
- Most commonly used tax forms
- Free assistance in preparing your return
- Other tax time resources.

www.michigan.gov/iit

This secure Web site was designed specifically to protect your personal tax information. Use this Web site to:

- Check the status of your return
- Check estimated payments you made during the year
- Check the status of letters you have sent to Treasury
- Change your address
- Ask a specific question about your account.

Telephone Options

1-800-827-4000
Automated Information Service

With Treasury's automated phone system, you can:

- Request the status of your refund
- Request information on estimated payments
- Order current tax year forms.

Tele-Help: For prerecorded information about income tax and tax credit topics, dial 1-800-827-4000 and press option "1." A complete list of topics is available in the MI-1040 instruction booklet.

While most questions can be answered by the Automated Information Service, you may speak with a customer service representative from 8:00 a.m. to 4:45 p.m., Monday through Friday, by calling 1-800-827-4000.

Telephone help is available using teletypewriter (TTY) equipment by calling (517) 636-4999. Printed material in an alternate format may be obtained by calling 1-800-827-4000 and pressing options 1, 4, and 223.

MI-1040CR-5 Filing Requirements

The following forms **must** be filed with your MI-1040CR-5:

- *Schedule of Taxes and Allocation to Each Agreement* (Schedule CR-5). The Schedule CR-5 lists all your agreements and corresponding taxes. Processing of your refund may be delayed if the Schedule CR-5 is not filed.
- *Michigan Individual Income Tax Return* (MI-1040). The MI-1040 must be filed, even if you are not otherwise required to file this form.
- *Michigan Home Heating Credit Claim* (MI-1040CR-7) or Michigan Homestead Property Tax Credit Claim (MI-1040CR). An MI-1040CR, MI-1040CR-2, or MI-1040CR-7 must be filed to include your household income, even if you are otherwise not entitled to the credit.

Important Reminders

Deduct all special assessments, penalties, interest, and other nonallowable charges from the property tax bills.

- Include your previous year's Farmland Preservation Tax Credit in federal AGI.
- Enter the **most current** agreement numbers on Schedule CR-5 and on the property tax statements. If agreements have been renewed, the expiration date will change.
- Complete Schedule CR-5 according to instructions
- Claim only the portion of the tax bill that is qualified on the property tax bill as agricultural. If less than 100 percent, claim the lower percentage.
- Attach all applicable federal returns and schedules (U.S. Forms *1040*, *1065, 1120S, K-1*, etc.).
- List each agreement once (add multiple parcels' taxable value and taxes together for an agreement and list on one line).
- The agreement number consists of three components: (1) the first two numbers are the county code, (2) the last six numbers are the expiration date, and (3) the middle portion is the contract number. If the agreement has split, it will have a letter added after the contract numbers.
- Include entire taxable value of agreement regardless of percentage you are claiming.
- Ownership on property tax statements must match ownership on agreements.
- Check the expiration date in the agreement number (last six digits). Do not use an agreement number with an expired date. If you extended the agreement, use the new expiration date.
- Attach 2008 tax statements that show the taxable value and an itemized listing by millage rate of the property taxes levied.

Where to Mail Your Return

Review your return carefully and make sure it is complete. Assemble your returns and attachments in the order shown on page 5 of the MI-1040 booklet. Mail your return and attachments to the address on your MI-1040.

General Information

What Is the Farmland Preservation Tax Credit?

The Farmland Preservation Credit gives back to farmland owners a share of the property tax they pay on their farmland. Farmland owners qualify for credit by agreeing to keep the land as farmland and not develop it for another use.

Farmland Preservation Tax Credit Qualifications

You qualify if you meet **all** of these requirements:

- You own farmland.
- You have entered into a Farmland Development Rights Agreement (FDRA) with the Michigan Department of Agriculture (MDA).
- You are eligible to file MI-1040.

Farmland Development Rights Agreement

Through an FDRA you receive property tax relief in return for your pledge not to change the use of your lands.

Caution: The FDRA restricts development of your land. Before making any changes to property covered under this agreement or to its ownership, consult the MDA. Some changes may make your property ineligible for credit.

Property Development Right

A Property Development Right (PDR) is an easement purchased from the landowner by MDA on behalf of the State of Michigan to protect development of prime farmland.

How to Claim the Credit

Complete the forms and file them with your MI-1040. Attach a copy of pages 1 and 2 of your U.S. Form *1040* and copies of U.S. *Schedules C, D, E, F;* and U.S. Forms *4797, 4835, 1065, 1120S,* and *K-1s* if you needed to complete them for your federal tax return. If you are not required to file a federal return, attach a schedule showing farm income and expenses used to arrive at net income.

Note: You must attach copies of the federal schedules that show the income and expense of the farming operation regardless of what kind of entity reports them (e.g., S corporation, trust, or partnership). You must also include the following:

- A copy of your 2008 property tax statement(s) that shows the taxable value, the property taxes levied, and the corresponding agreement numbers.
- A 2008 MI-1040CR with a completed schedule of household income **even if you are not qualified to receive the credit** (see line 8 instructions on page 6).
- A copy of the receipt showing that your 2007 or 2008 property taxes were paid. If your property taxes have not been paid or you do not attach your receipt(s), Treasury will mail you a check made jointly payable to you and the county treasurer for the county where the property is located. (A new check payable only to you will not be issued if you later prove that the taxes have been paid.)

Note: If a claimant falsely specifies that the receipt showing payment of the property taxes is attached to the return and the property taxes are not paid before the return is filed, all future payments of credits to the claimant will be made payable jointly with the county treasurer of the county in which the property under agreement is located (Section 36109 (7)).

- If your property tax statement includes property that is not covered under an FDRA, you must show what portion of your taxable value and property tax is for land enrolled in the FDRA. Your local equalization officer or your local assessor must give you this information on official letterhead, if it is not detailed on your property tax bills.
- If you farmed under a partnership, include a copy of your U.S. Form *1065* and *Schedules K* and *K-1.*
- If you farmed under an S corporation, include U.S. Form *1120S* and *Schedules K* and *K-1.*
- Joint ownerships must include a statement signed by all owners specifying each owner's percentage of income and expenses.

When to Claim a New Agreement

New agreements must be approved by your local government by November 1, 2008, for you to claim a 2008 credit for that agreement. The new FDRA is not final until you receive a copy from the MDA that has been recorded at the Register of Deeds. Credit for the new FDRA will not be allowed unless a copy of the recorded agreement is attached to your return. If you do not get your copy before April 15, 2009, file your return without claiming credit for the new agreement. File MI-1040CR-5 with a new MI-1040 and write "amended" at the top of the form in blue or black ink for quickest processing. Do not file an *Amended Michigan Income Tax Return* (MI-1040X).

Which Form to File

You may file one of two forms depending on the type of farm ownership.

The following should file using MI-1040CR-5 with their income tax return:

- Individuals who own a farm independently
- An individual in possession under a life estate with remainder to another person
- Representatives of deceased single persons. Include property taxes and income from January 1 to the date of death
- Partnerships
- Joint owners
- Limited liability companies
- S corporation shareholders, **except** shareholders of S corporations who had an FDRA before January 1, 1989, and in 1991 elected to file under the Single Business Tax (SBT) Act on C-8022
- Grantor trusts (if treated as an owner under Internal Revenue Code (IRC), Sections 671 through 679)

- Trusts created by the death of a spouse if the trust requires 100 percent of the income from the trust to be distributed each year to the surviving spouse.

The following should file a *Farmland Preservation Tax Credit* (Form 4594):

- Estates, including property taxes from the date of death and farm income required to be reported on the entity's U.S. Form *1041*.
- Corporations other than S corporations
- S corporations that had an FDRA before January 1, 1989, and in 1991 elected to file C-8022
- Trusts, except as noted above.

Form 4594 can be found at **www.michigan.gov/taxes** or call 1-800-827-4000.

What to Do With a Jointly Payable Check

Take the check, check stub, and a copy of your FDRA(s) to your county treasurer(s). He or she will ask you to endorse the check, then use the refund to pay any delinquent taxes. Any amount left will be refunded to you.

Property Taxes That Can Be Claimed for Credit

The property taxes levied in 2008 on enrolled land can be claimed for the 2008 credit, regardless of when they are paid. Special assessments (those not based on State equalized or taxable value), penalties, and interest cannot be claimed.

Taxes on land not eligible for either the principal residence or qualified agricultural property exemption usually are not eligible for a Farmland Preservation Tax Credit. The exception is rental property where the tenant participates in the farming operation at least 1,040 hours per year. To compute the taxes that can be claimed for credit, exclude the school operating tax and multiply the balance by the percentage of exemption allowed by the local taxing authority. See example below:

Taxes levied.....$2,000
School operating tax.....$350
Principal residence exemption.....60%

$2,000	$1,650	
- 350	x 60%	
$1,650	$990	*Can be claimed for credit*

If you have entered into more than one agreement with the MDA, the sum of the taxes under each agreement is used to compute your credit. The amount of credit you will receive is based on household income.

Computing the Homestead Property Tax Credit

You must include your total Farmland Preservation Tax Credit amount on your MI-1040CR or your MI-1040CR-2. Enter the amount of credit you received in 2008 on the MI-1040CR, line 17, or MI-1040CR-2, line 18, or include the credit in net farm income on MI-1040CR, line 15, or MI-1040CR-2, line 16. Homestead Property Tax Credits are not included in Michigan household income. If you included this amount in your taxable farm income, you may subtract it from your household income.

Effect on Your 2008 Taxable Farm Income

The portion of your Homestead Property Tax Credit that is for farm buildings and land is business related. To determine the portion that is business income, divide the taxable value of your buildings and farmland by the total taxable value of your property, then multiply by the credit (see below). Your local assessor can show you how your total taxable value was determined.

$$\frac{\text{Taxable value of buildings and farmland}}{\text{Total taxable value}} \times \text{2007 Homestead Property Tax Credit amount}$$

= Portion of Homestead Property Tax Credit that is business income

You must include your 2007 Farmland Preservation Tax Credit amount and the business portion of your 2007 Homestead Property Tax Credit in your 2008 federal AGI. If you own your property as an individual but the farming activity is operated under a partnership, report the Farmland Preservation Tax Credit on your personal return.

Was your 2007 tax refund (MI-1040, line 34) greater than the amount of your 2007 Farmland Preservation Tax Credit (MI-1040, line 27) plus the business portion of your Homestead Property Tax Credit?

If Yes, you may subtract on line 16 of the *Schedule 1* the excess refund amount you received in 2008 to the extent it was included in federal AGI.

Land Owned by a Person Under a Life Estate

A person in possession for life under a life estate with remainder interest to another person may claim all the property taxes to compute the credit. However, the life estate holder and the person(s) holding the remainder interest may choose to divide the property taxes in the same manner as they divide revenue and expenses. A written agreement must be attached to each return.

Land Owned by a Partnership

Property taxes on land owned by a partnership are allocated to the partners based on the partner's percent of income or ownership. All partners must use the same basis for filing.

If the partnership files a U.S. Form *1065,* the percent is on each partner's *Schedule K-1.* If the partnership is not required to file a U.S. Form *1065*, the percentage of income is on the partnership agreement or on a statement signed by all the partners. If no U.S. Form *1065* is required, use Part 2 to show percentage of income or ownership.

Land Owned With Someone Other Than a Spouse

Taxes on land owned jointly are allocated to each owner. If co-owners divide each item of revenue and expenses and choose to allocate the property taxes that same way, they may do so only if they attach a copy of a statement signed by each owner. The statement must show each owner's share of the revenues and expenses. This requirement can

be met by completing Part 2 of MI-1040CR-5. If a signed income distribution statement is not attached, the taxes must be allocated equally among the owners, with two exceptions:

- A husband and wife are considered one owner.
- An owner eligible to be claimed as a dependent by another owner cannot receive a share of the taxes and cannot claim a credit for that farmland.

Land Owned by a Limited Liability Company

Property taxes on land owned by a limited liability company are allocated to each member in a percentage equal to the member's share of ownership or distributive share of ordinary income as reported by the limited liability company to the Internal Revenue Service (IRS).

Land Owned by an S Corporation or Trust

Beginning with credits for 1988, taxes on land owned by an S corporation are allocated to each shareholder based on the shareholder's share of the corporation's stock. This percentage is on U.S. Form *1120S, Schedule K-1*. **Exception:** If the S corporation had an FDRA before 1989, and in 1991 elected to file under the SBT Act on C-8022, the S corporation must continue to file under the MBT. If the FDRA was not in the S corporation's name before January 1, 1989, the taxes on land covered by this agreement must be claimed on the shareholders' Michigan income tax using MI-1040CR-5. These taxes must be claimed by the shareholders even if the S corporation elected to file C-8022 for other agreements that the S corporation entered into before January 1, 1989.

For farmland owned by a grantor trust, if you are treated as the owner of that trust under IRC sections 671 through 679, you must include a copy of that portion of the trust agreement that shows you are the owner of a grantor trust holding title to the farmland.

If the trust was created by the death of a spouse and requires 100 percent of the income to be distributed to the surviving spouse, you must attach a copy of U.S. Form *1041* and *Schedule K-1*, if required.

Claiming a Credit on a Farm Purchased in 2008 That Was Already Enrolled in the Farmland Program

Your farmland credit will be processed only if there is a farmland agreement on file with the MDA **in the same name as your deed.** You must prorate the 2008 taxes for the period you owned the land and claim your credit based only on those taxes.

Filed for Bankruptcy

If you are enrolled in the Farmland and Open Space Preservation Act program and have petitioned for bankruptcy (under U.S. Bankruptcy Code, chapters 7, 11, 12, or 13), claim your credit on MI-1040CR-5 and attach it to your Michigan income tax return.

You must prorate your credit for the part of the year ending when the petition in bankruptcy was filed. The trustee in bankruptcy or the landowner as Debtor in Possession may file a claim for the portion of the year following the date of petition. Bankruptcy estates are also required to file a *Fiduciary Income Tax Return* (MI-1041).

Transferring an Agreement

To transfer an agreement, you must show that all of the land described under the agreement has been conveyed. The MDA will need a copy of the legal document (e.g., deed, land contract, etc.) used for conveyance and the new owner's name, address, Social Security number, and a fee of $25 per transfer.

For more information on the Farmland Preservation Agreement contact:

Farmland and Open Space Preservation Unit
Environmental Stewardship Division
Michigan Department of Agriculture
P.O. Box 30449
Lansing, Michigan 48909

Line-by-Line Instructions: Schedule CR-5 and MI-1040CR-5

Lines not listed are explained on the forms.

Schedule CR-5

Column A: Agreement number or contract number is found in the lower-right corner of each agreement. The first two numbers represent the county where the property is located. The middle set of numbers is the actual contract number. The final six numbers are the year of expiration, (i.e., 123108 is December 31, 2008). The contract number retains its original series throughout the term of the agreement. However, a letter may be added to indicate that the agreement was split into multiple agreements. The final six numbers change when the agreement is reduced or extended. Always use the contract number on your most recently recorded agreement and attach a copy of each 2008 tax statement that corresponds to the agreement number listed.

Column B: List the 2008 taxable value for each agreement that you owned in 2008. The taxable value is found on your property tax statement(s) for each parcel. The total taxable value for each agreement must be listed; do not list each individual parcel. You may also contact your local assessor for this information.

Note: If the property tax statement includes taxable value for land not covered by an FDRA, the taxable value reported in column B must be adjusted accordingly. The taxable value that cannot be claimed must be determined by the local assessor's office and submitted on his or her official letterhead.

If the property tax statement includes taxable value for land on more than one agreement, the taxable value reported in column B must be separated according to land in each agreement. The local assessor will be able to determine what the breakdown is based on the legal descriptions of the land enrolled under each agreement.

The entire taxable value for the agreement must be entered in column B even if you are eligible to claim only a portion of the property taxes because of joint ownership(s), partnership(s), or multiple shareholders.

Column C: For each agreement, check the "Yes" box if you attached paid tax receipts for 2007 or 2008. If paid receipts are not attached, check "No." If you do not check a box, your Farmland Preservation Tax Credit will be issued jointly to you and the treasurer for the county where the property is located.

Note: 2008 property tax statements must be attached regardless of which box is checked in column C. If you e-file your MI-1040CR-5, the "Yes" or "No" box must indicate whether your 2007 or 2008 property taxes are paid and not whether they are attached to the return. E-filers do not send property tax statements unless requested to do so by Treasury at a later date. However, when e-filing, be sure to check the "Yes" box on Schedule CR-5, column C, when taxes have been paid.

Column D: Enter "I" if you are the individual owner or co-own the land with your spouse, "J" if you are a joint owner with someone other than your spouse, "P" if the land is owned by a partnership, or "S" if the land is owned by an S corporation.

Column E: If the land is owned by you and someone other than your spouse, enter your percent of income from the signed statement or your percent of ownership based on the number of owners. If the land is owned by a partnership, enter your percent of income or ownership. All partners must use the same basis for filing. If the land is owned by an S corporation, enter your percent of stock ownership.

Column F: Individuals enter the taxes from each tax agreement for the portion of land enrolled under an agreement. **Joint owners, partners, and shareholders** enter only their allocated share of taxes from each tax statement for the portion of land enrolled under an agreement.

Note: If the property tax statement includes taxes for land not covered by an FDRA, the taxes reported in column F must be reduced accordingly. The amount of taxes that cannot be claimed must be determined by the local assessor's office and submitted on his or her official letterhead. The 1 percent collection fee may be included. Do not include penalties, interest, or special assessments.

If the property tax statement includes taxes for land on more than one agreement, the taxes reported in column F must be separated according to land in each agreement. The local assessor will be able to determine what the breakdown is based on the legal descriptions of the land enrolled under each agreement.

After completing the MI-1040CR-5, complete columns G and H of Schedule CR-5 only if you have entered into more than one agreement.

Schedule CR-5, Column H: Multiply line 13 or 18 from the MI-1040CR-5, whichever applies, by the percentage computed in column G for each agreement and enter in column H.

MI-1040CR-5

Line 5: If all of the taxes which qualify for a Homestead Property Tax Credit are included in the total on line 4, check "Yes;" otherwise, check "No."

Before completing line 8, read "Computing the Homestead Property Tax Credit" on page 4.

Line 8: Enter your total household income from your MI-1040CR, MI-1040CR-2, or MI-1040CR-7. If you are a part-year or nonresident, include total 2008 household income, regardless of source.

Line 11: Enter amount of property tax from line 4. This line **must be completed.**

Line 15: If line 15 is less than line 7, carry amount from line 13 to Form MI-1040, line 28. If line 15 is greater than line 7, complete lines 16 through 18.

PART 2: If you own farmland jointly with someone other than your spouse, complete Part 2. For each agreement, enter the information for each owner.

Partners may use Part 2 to show percentage of income or ownership if no U.S. Form *1065* was required. All partners must sign.

Forms contained in this booklet (pages 7 - 14) are posted separately. Select and print the form you need from the list below.

Forms	Page No.
MI-1040CR-5, Farmland Preservation Tax Credit Claim	7-10
Schedule CR-5, Schedule of Taxes and Allocation to Each Agreement	11-14

Take it Easy. E-file.

It's Accurate.

E-file helps eliminate many of the errors that slow down processing times.

It's Simple.

Almost two-thirds (over 3.2 million) of all Michigan taxpayers e-file their tax returns.

It's Convenient.

Choose Direct Deposit, and your refund goes directly into your account.

e-file

www.MIfastfile.org

Michigan Department of Treasury
Lansing, MI 48922

PRSRT STD
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Mich. Dept. of Treasury

Review this label. If the information is correct and your filing status is the same as last year (single, married filing jointly, or married filing separately), place the label on the address block of your tax return. **If any information is incorrect, do not use this label.** Write the correct information on the return. If you use a tax preparer, take this booklet to your preparer and ask him or her to use this label. Using this label will help shorten the processing time of your return.

Treasury Offices

Forms are available at all Treasury offices listed below. (Treasury office staff do not prepare tax returns.)

DETROIT
Cadillac Place, Suite 2-200
3060 W. Grand Blvd.

DIMONDALE *
7285 Parsons Drive
(*NOT a mailing address)

ESCANABA
State Office Building, Room 7
305 Ludington Street
(open 8 - 12 only)

FLINT
State Office Building, 7th Floor
125 E. Union Street

GRAND RAPIDS
State Office Building, 2nd Floor
350 Ottawa Avenue, NW - Unit 17

STERLING HEIGHTS
41300 Dequindre Road, Suite 200

TRAVERSE CITY
701 S. Elmwood Avenue, 4th Floor
(open 8 - 12 only)

E-file and Leave the Paper Behind!

- Accurate
- Quick Refunds
- Proof of Acceptance
- May Be Free – Do you qualify?

www.MIfastfile.org

Mail your return to the address on your MI-1040 Individual Income Tax Return.