

State Tax Commission Bulletin No. 4 of 1997
JANUARY 24, 1997

QUALIFIED AGRICULTURAL PROPERTY

TO: Assessing Officers
Equalization Directors

FROM: State Tax Commission (STC)

SUBJECT: "QUALIFIED AGRICULTURAL PROPERTY" EXEMPT FROM 18 MILLS OF LOCAL "SCHOOL OPERATING" LEVY (THIS BULLETIN REPLACES STC BULLETIN NO. 10 OF 1995)

The STC issued Bulletin No. 10 of 1995 on February 23, 1995. The subject of the bulletin was the implementation of the Qualified Agricultural Property exemption from the 18 mills of Local School Operating Tax.

Since the issuance of that bulletin, 1996 Public Act (PA) 233 has been enacted with an effective date of June 5, 1996 and PA 476 of 1996 has been enacted with an effective date of December 26, 1996. PA 233 of 1996 deals with the Qualified Agricultural Property exemption by redefining "Agricultural Use". PA 476 of 1996 ELIMINATES the requirement that all property owners (who are required to file claim forms) file new claims for the Qualified Agricultural Property Exemption in 1999. Because of these changes in the law, it is necessary that the STC amend its Bulletin No. 10 of 1995.

The parts of STC Bulletin No. 10 of 1995 that have changed are underlined in the following material. The original parts of Bulletin 10, which are shown below, are in accordance with current law. The material that follows constitute a new bulletin identified as STC Bulletin No. 4 of 1997.

STC Bulletin No. 4 of 1997 replaces STC Bulletin No. 10 of 1995.

Important Note: This bulletin does not address the provisions contained in PA 476 of 1996 regarding the authority of the **1997** July and December Boards of Review to place a qualified agricultural property exemption on the **1994** tax roll. These provisions will be discussed in a future bulletin regarding the authority of the July and December Boards of Review.

The following material is STC Bulletin No. 4 of 1997:

Attached is a copy of sections 7dd and 7ee of the General Property Tax Act as amended by PA 476 of 1996. These sections address the QUALIFIED AGRICULTURAL PROPERTY exemption from the 18 mills of local school operating taxes. The Qualified Agricultural Property millage exemption must not be confused with the "homestead" exemption which may apply to some agricultural properties which are used as primary residences or are adjacent to primary residences.

This bulletin addresses those aspects of the General Property Tax Act which deal with the provisions affecting the administration of the exemption for QUALIFIED AGRICULTURAL PROPERTIES ONLY.

STC Bulletin No.15 of 1995 addressed those aspects of the Act which deal with the provisions affecting the operation of the July and December Boards of Review. STC Bulletin No. 15 of 1995 will also be replaced soon by a new bulletin regarding the authority of the July and December Boards of Review

"Qualified Agricultural Property" is defined in Michigan Compiled Law (MCL) 211.7dd as follows:

"Qualified agricultural property" means unoccupied property and related buildings classified as agricultural, or other unoccupied property and related buildings located on that property devoted primarily to agricultural use as defined in section 36101 of part 361 (farmland and open space preservation) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994 being section 324.36101 of the Michigan Compiled Laws. Related buildings include a residence occupied by a person employed in or actively involved in the agricultural use and who has not claimed a homestead exemption on other property. Property used for commercial storage, commercial processing, commercial distribution, commercial marketing, or commercial shipping operations or other commercial or industrial purposes is not qualified agricultural property. A parcel of property is devoted primarily to agricultural use only if more than 50% of the parcel's acreage is devoted to agricultural use. An owner shall not receive an exemption for that portion of the total state equalized valuation of the property that is used for a commercial or industrial purpose or that is a residence that is not a related building.

The following is the definition of "agricultural use" from section 324.36101 of Act No. 451 of the Public Acts of 1994 which is referred to in the definition above:

"Agricultural use" means substantially undeveloped land devoted to the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. The management and harvesting of a woodlot is not an agricultural use under this act.

It should be noted that this definition of agricultural use does not require that the property be classified as agricultural for property tax assessment purposes under MCL 211.34c.

In this bulletin, qualified agricultural properties will be divided into 2 groups. The first group consists of those properties that are classified by the assessor as agricultural. The second group consists of those properties NOT classified as agricultural.

The main differences between the two are:

1) Properties NOT classified agricultural must be devoted primarily to an agricultural use.

2) Owners of properties NOT classified agricultural must file an affidavit ([Form T-1063](#), copy attached) with the local assessing unit by May 1 in order to qualify.

A) Property Classified as Agricultural

Unoccupied property and related buildings that are classified on the assessment roll as agricultural as of May 1 shall be exempted from the 18 mills of local school operating tax. **This includes property assessed to the Department of Natural Resources that is classified as agricultural.**

Related buildings include a residence occupied by a person employed in or actively involved in the agricultural use if that person has not claimed a homestead property exemption on other property.

NOTE: Property is NOT required to be contiguous to the homestead in order to qualify for the Qualified Agricultural Property exemption. Land is NOT disqualified when it is being leased or rented.

Qualified Agricultural Property does NOT include the following:

1) Properties that have already been granted a "homestead" exemption.

2) Buildings on the property unrelated to the agricultural use.

3) Residences on the property occupied by persons who are NOT employed in or actively involved in the agricultural use.

4) Residences on the property occupied by persons who claim a homestead exemption on other property.

5. Property used for:

- a. commercial processing
- b. commercial distribution
- c. commercial marketing
- d. commercial shipping
- e. any other commercial or industrial purposes.

If a property which is classified agricultural includes one or more of the uses described in #1 to #5 above, it will be necessary for the assessor to estimate the percent of the value of the property which qualifies for the exemption. This percentage is calculated by dividing the value of that portion of the property that qualifies for exemption by the total property value.

When the assessor thinks that a property might include structures that do not qualify for the exemption, the assessor may mail a copy of the attached affidavit (Form T-1063) to the property owner.

B) Property NOT Classified Agricultural, But Devoted Primarily to Agricultural Use as Defined in PA 451 of 1994 as Amended by PA 233 of 1996.

Unoccupied property and related buildings that are NOT classified as agricultural on the assessment roll but ARE devoted primarily to agricultural use, as defined below, are exempt from the 18 mills of local school operating tax provided an affidavit form (Form T-1063) is filed with the local assessing unit by May 1 of the current year. See paragraph F of this bulletin regarding how long the exemption lasts. A property is "devoted primarily to agricultural use" when it meets the 50% Test described later in this section of the bulletin.

Related buildings include a residence occupied by a person employed in or actively involved in the agricultural use if that person has not claimed a homestead exemption on other property.

NOTE: Property is NOT required to be contiguous to a homestead to qualify for the Qualified Agricultural Property exemption. Land is NOT disqualified when it is being leased or rented.

The following is the definition of agricultural use as found in section 324.36101 of Public Act (PA) 451 of 1994 as amended by PA 233 of 1996. Please note that the new language in this definition has been underlined.

"Agricultural use" means substantially undeveloped land devoted to the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry, and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. The management and harvesting of a woodlot is not an agricultural use under this act.

IMPORTANT: PA 233 of 1996 that took effect on June 5, 1996 has changed the above definition of "Agricultural Use". This new definition will first be used for determining the Qualified Agricultural Property exemptions for 1997. This new definition does not apply to the determination of Qualified Agricultural Property Exemptions for 1996.

This new definition of "Agricultural Use" confirms that the management and harvesting of a woodlot is NOT an "agricultural use".

This new definition of "Agricultural Use" includes the breeding and grazing of captive cervidae. Cervidae is defined as a group of animals which includes deer, elk, and moose. The breeding and grazing of captive cervidae includes farms where cervidae are raised for the same or similar purposes as are customary in the breeding and grazing of other animals such as cattle. The breeding and grazing of captive cervidae does NOT include properties used primarily as hunting ranches where customers pay a fee to hunt animals.

This new definition of "Agricultural use" DOES include land used for growing nursery plants and

bedding plants including green houses used for this same purpose. A greenhouse used primarily for marketing plants is NOT an "agricultural use".

50% TEST FOR QUALIFIED AGRICULTURAL PROPERTY

Michigan Compiled Law (MCL) 211.7dd(e) states that a property is devoted primarily to agricultural use if more than 50% of the parcel's acreage is devoted to agricultural use. **IF 50% OR LESS OF THE ACREAGE IS DEVOTED TO AN AGRICULTURAL USE, NONE OF THE PROPERTY QUALIFIES FOR THE EXEMPTION.**

EXAMPLE OF 50% TEST:

In order for an 80-acre parcel to pass the 50% test, MORE than 40 acres must be used for an agricultural use. If only 38 acres are being used for agricultural use and the remaining 42 acres are being used for other uses such as commercial, industrial, or growing timber, NONE of the property would qualify for the exemption.

Once a property passes the 50% test, the assessor must then consider whether the property should get a 100% exemption or less than 100%. The following uses do not qualify for exemption and would cause the exemption to be less than 100%.

- 1) Property that has already been granted a "homestead" exemption.
- 2) Buildings on the property unrelated to the agricultural use.
- 3) Residences on the property occupied by persons who are NOT employed in or actively involved in the agricultural use.
- 4) Residences on the property occupied by persons who claim a homestead exemption on other property.
- 5) Property used for:
 - a) commercial storage
 - b) commercial processing
 - c) commercial distribution
 - d) commercial marketing
 - e) commercial shipping
 - f) any other commercial or industrial purposes

If a property which is devoted primarily to an agricultural use includes one or more of the situation described in #1 to #5 above, it will be necessary for the assessor to estimate the percent of the value of the property which qualifies for the exemption. This percentage is calculated by dividing the value of that portion of the property that qualifies for exemption by the total property value.

THE FILING OF THE ATTACHED AFFIDAVIT FORM (Form T-1063) IS REQUIRED FOR PROPERTIES WHICH ARE NOT CLASSIFIED AS AGRICULTURAL. The assessor DOES have the authority and the duty to deny an exemption if he/she has reason to believe that the property does not qualify even though the form has been filed. The assessor may also use a qualifying percentage of value different from what is reported on the affidavit.

C. (Form T-1063) Affidavit Form for Claiming Qualified Agricultural Property Exemption

There is a difference in the procedures required by the law regarding the filing of the affidavit form for properties classified by the assessor as agricultural versus those not classified as agricultural.

1. Property Classified Agricultural

The owner of property classified as agricultural is not required to file an affidavit form claiming the exemption from the 18 mills unless requested to by the assessor.

The assessor may request the owner to file the affidavit form to determine whether the property in question includes structures that are not exempt under the law. Please see part "A" of this bulletin for a listing of these types of structures.

2. Property NOT Classified Agricultural

The owner of property not classified by the assessor as agricultural is required by law to file an affidavit in order to receive the exemption for qualified agricultural property.

Starting in 1995, this form must be filed by May 1. See paragraph F of this bulletin regarding how long the exemption lasts.

3. Assessor Retains Qualified Agricultural Forms

The assessor should keep the affidavits filed for the qualified agricultural property exemption. **THE QUALIFIED AGRICULTURAL AFFIDAVIT FORM (T-1063) SHOULD NOT BE SENT TO THE MICHIGAN DEPARTMENT OF TREASURY.**

D) Form for Rescinding the Exemption ([Form T-1072](#))

If all or a part of exempted property is no longer qualified agricultural property, the owner shall rescind the applicable portion of the exemption by filing a rescission form (copy attached) with the local assessing unit. This form must be filed not more than 90 days after the property or a part of the property is no longer qualified. When a rescission is filed, the exemption ends as of December 31 of the year the rescission was filed.

Beginning October 1, 1994, an owner who fails to file a rescission form is subject to a penalty of \$5 per day, up to a maximum of \$200. The count of days for the penalty starts 90 days after the property

is no longer qualified.

The penalty of \$5 per day shall be collected by the Revenue Division of the Michigan Department of Treasury and shall be deposited in the state school aid fund. The Department of Treasury may waive this penalty.

E) Owner's Request that the Local Unit Withdraw the Qualified Agricultural Property Exemption (This information was originally contained in STC Bulletin No. 15 of 1995).

PA 74 of 1995 added language to the law that provides that an owner may request in writing that a local tax-collecting unit WITHDRAW the Qualified Agricultural Property exemption.

A withdrawal is different from a rescission. A rescission (Form T- 1072) is filed by an owner when a property which was Qualified Agricultural Property when the affidavit was originally filed is no longer Qualified Agricultural Property. When a rescission is filed, the exemption ends as of December 31 of the year the rescission was filed.

An owner requests a WITHDRAWAL if the Qualified Agricultural Property exemption was erroneously granted to begin with and the property never did qualify for the exemption.

When an owner makes a request for a withdrawal, the assessor shall notify the owner that the exemption has been withdrawn because of the request. The property shall then be immediately placed on the tax roll by the local tax collecting unit if it has possession of the tax roll or by the county treasurer if the county has possession of the tax roll.

A corrected tax bill shall then be issued by the local tax-collecting unit or by the county treasurer (depending on who has possession of the tax roll) as though the exemption had not been granted.

The owner is not liable for any penalty or interest on the additional tax because of the withdrawal if BOTH of the following conditions are met:

- a) The owner requests that the exemption be withdrawn BEFORE he/she is contacted in writing by the local assessor regarding his/her eligibility for the exemption. In other words, a withdrawal by an owner after the assessor has already contacted the owner in writing about his/her eligibility for exemption would not qualify.
- b) The owner pays the corrected tax bill within 30 days after the corrected bill is issued.

An owner who does not meet the conditions of BOTH "a" and "b" above is liable for the penalties and interest that would have accrued if the exemption had not been granted from the date that taxes were originally levied.

F) Term of Exemption

PA 476 of 1996 provides that the QUALIFIED AGRICULTURAL PROPERTY exemption shall exempt property from the local school operating tax until December 31 of the year in which the property is no longer qualified agricultural property as defined in section 7dd of the General Property Tax Act.

Prior to PA 476 of 1996, the law stated that all Qualified Agricultural Property Exemptions would expire on December 31, 1998. **This is no longer true.**

PA 476 of 1996 provides that all Owners of Qualified Agricultural Property (who are required to file claim forms) will NOT be required to file new claims for exemption in 1999 and every- 4 years thereafter as was required by the law prior to PA 476 of 1996.

G) Appeal Procedures for Qualified Agricultural Property Exemption

1) MARCH Board of Review

The MARCH Board of Review DOES have the authority to consider and act on appeals regarding the exemption for qualified agricultural properties for a current year but may not reach back and adjust a prior year's Qualified Agricultural Property Exemptions. If an assessor believes that a property for which an exemption has been granted in a previous year is not qualified agricultural property in a current year, the assessor is obligated to deny or modify the exemption for the current year. If so, the assessor must notify the owner in writing and mail the notice to the owner not less than 10 days before the second meeting of the Board of Review. A taxpayer may then appeal the assessor's determination to the MARCH Board of Review. The Board of Review's decision may then be appealed to the Residential and Small Claims Division of the Michigan Tax Tribunal by June 30 of the current year.

As stated above, the assessor has the authority and the duty to deny or change the percentage of the property exempted. The Board of Review has this same authority. See parts "A" and "B" of this bulletin for an explanation of situations that would cause a property to receive less than 100% exemption.

The MARCH Board of Review has NO authority to act upon a prior year's exemption.

The March Board of Review has NO authority to consider or act upon appeals of "HOMESTEAD" exemptions for any year, no matter how the "homesteads" are classified.

2) JULY or DECEMBER Boards of Review

Please see STC Bulletin No. 15 of 1995 regarding the July and December Board of Review's authority regarding Qualified Agricultural Property Exemptions.

Important Note: It is expected that STC Bulletin No. 15 of 1995 will soon be replaced by a new bulletin which includes the provisions of PA 476 of 1996 that apply to the authority of the July and December Boards of Review.

Sec. 7dd. As used in sections 7cc and 7ee:

(a) "Homestead" means that portion of a dwelling or unit in a multiple-unit dwelling that is subject to ad valorem taxes and is owned and occupied as a principal residence by an owner of the dwelling or unit. Homestead also includes all of an owner's unoccupied property classified as residential that is adjoining or contiguous to the dwelling subject to ad valorem taxes and that is owned and occupied as a principal residence by the owner. Contiguity is not broken by a road, a right-of-way, or property purchased or taken under condemnation proceedings by a public utility for power transmission lines if the 2 parcels separated by the purchased or condemned property were a single parcel prior to the sale or condemnation. Homestead also includes any portion of a principal residence of an owner that is rented or leased to another person as a residence as long as that portion of the principal residence that is rented or leased is less than 50% of the total square footage of living space in that principal residence. Homestead also includes a life care facility registered under the living care disclosure act, Act No. 440 of the Public Acts of 1976, being sections 554.801 to 554.844 of the Michigan Compiled Laws. Homestead also includes property owned by a cooperative housing corporation and occupied as a principal residence by tenant stockholders.

(b) "Owner" means any of the following:

(i) A person who owns property or who is purchasing property under a land contract.

(ii) A person who is a partial owner of property.

(iii) A person who owns property as a result of being a beneficiary of a will or trust or as a result of intestate succession.

(iv) A person who owns or is purchasing a dwelling on leased land.

(v) A person holding a life lease in property previously sold or transferred to another.

(vi) A grantor who has placed the property in a revocable trust or a qualified personal residence trust.

(vii) A cooperative housing corporation.

(viii) A facility registered under Act No. 440 of the Public Acts of 1976.

(c) "Person", for purposes of defining owner as used in section 7cc, means an individual and for purposes of defining owner as used in section 7ee means an individual, partnership, corporation, limited liability company, association, or other legal entity.

(d) "Principal residence" means the 1 place where a person has his or her true, fixed, and permanent home to which, whenever absent, he or she intends to return and that shall continue as a principal residence until another principal residence is established.

(e) "Qualified agricultural property" means unoccupied property and related buildings classified as agricultural, or other unoccupied property and related buildings located on that property devoted primarily to agricultural use as defined in section 36101 of part 361 (farmland and open space preservation) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being section 324.36101 of the Michigan Compiled Laws. Related buildings include a residence occupied by a person employed in or actively involved in the agricultural use and who has not claimed a homestead exemption on other property. Property used for commercial storage, commercial processing, commercial distribution, commercial marketing, or commercial shipping operations or other commercial or industrial purposes is not qualified agricultural property. A parcel of property is devoted primarily to agricultural use only if more than 50% of the parcel's acreage is devoted to agricultural use. An owner shall not receive an exemption for that portion of the total state equalized valuation of the property that is used for a commercial or industrial purpose or that is a residence that is not a related building.

Sec. 7ee. (1) Qualified agricultural property is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, Act No. 451 of the Public Acts of 1976, being section 380.1211 of the Michigan Compiled Laws, according to the provisions of this section.

(2) Qualified agricultural property that is classified as agricultural under section 34c is exempt under subsection (1) and the owner is not required to file an affidavit claiming an exemption with the local tax collecting unit unless requested by the assessor to determine whether the property includes structures that are not exempt under this section. To claim an exemption under subsection (1) for qualified agricultural property that is not classified as agricultural under section 34c, the owner shall file an affidavit claiming the exemption with the local tax-collecting unit by May 1. However, if an affidavit claiming a homestead exemption on qualified agricultural property not classified as agricultural was not filed by May 1 in 1994, the owner shall file an affidavit under this section by June 1, 1994.

(3) The affidavit shall be on a form prescribed by the department of treasury.

(4) For property classified as agricultural, and upon receipt of an affidavit filed under subsection (2) for property not classified as agricultural, the assessor shall determine if the property is qualified agricultural property and if so shall exempt the property from the collection of the tax as provided in subsection (1) until December 31 of the year in which the property is no longer qualified agricultural property as defined in section 7dd. An owner is required to file a new claim for exemption on the same property as requested by the assessor under subsection (2).

(5) Not more than 90 days after all or a portion of the exempted property is no longer qualified agricultural property, the owner shall rescind the exemption for the applicable portion of the property by filing with the local tax collecting unit a rescission form prescribed by the department of treasury. Beginning October 1, 1994, an owner who fails to file a rescission as required by this subsection is subject to a penalty of \$5.00 per day for each separate failure beginning after the 90 days have elapsed, up to a maximum of \$200.00. This penalty shall be collected under Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws, and shall be deposited in the state school aid fund established in section 11 of article IX of the state constitution of 1963. This penalty may be waived by the department of treasury.

(6) An owner of property that is qualified agricultural property on May 1 for which an exemption was not on the tax roll may file an appeal with the July or December board of review in the year the exemption was claimed or the immediately succeeding year. An owner of property that is qualified agricultural property on May 1 for which an exemption was denied by the assessor in the year the affidavit was filed, may file an appeal with the July board of review for summer taxes or, if there is not a summer levy of school operating taxes, with the December board of review.

(7) If the assessor of the local tax collecting unit believes that the property for which an exemption has been granted is not qualified agricultural property, effective for taxes levied after 1994, the assessor may deny or modify an existing exemption by notifying the owner in writing at the time required for providing a notice under section 24c. A taxpayer may appeal the assessor's determination to the board of review meeting under section 30. A decision of the board of review may be appealed to the residential and small claims division of the Michigan tax tribunal.

(8) If an exemption under this section is erroneously granted, an owner may request in writing that the local tax-collecting unit withdraw the exemption. If an owner requests that an exemption be withdrawn, the local assessor shall notify the owner that the exemption issued under this section has been denied based on that owner's request. If an exemption is withdrawn, the property that had been subject to that exemption shall be immediately placed on the tax roll by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll as though the exemption had not been granted. A corrected tax bill shall be issued for the tax year being adjusted by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll. If an owner requests that an exemption under this section be withdrawn before that owner is contacted in writing by the local assessor regarding that owner's eligibility for the exemption and that owner pays the corrected tax bill issued under this subsection within 30 days after the corrected tax bill is issued, that owner is not liable for any penalty or interest on the additional tax. An owner who pays a corrected tax bill issued under this subsection more than 30 days after the corrected tax bill is issued is liable for the penalties and interest that would have accrued if the exemption had not been granted from the date the taxes were originally levied.

(9) An owner of qualified agricultural property for which an exemption was on the tax roll in 1995 and each year after 1995 and for which an exemption was not on the tax roll in 1994 may appeal to the July or December Board of Review in 1997 to have an exemption placed on the 1994 tax roll if all of the following conditions are satisfied:

- a. The qualified agricultural property was qualified agricultural property in 1994 and has been qualified agricultural property since 1994.
- b. The owner owned that qualified agricultural property on May 1, 1994.
- c. If a claim of exemption was denied in 1994, the owner did not timely appeal that denial as provided in this section.

d. The owner has owned that qualified agricultural property since 1994.

(10) If the July or December board of review in 1997 grants a claim of exemption for 1994 under subsection (9), the county treasurer with possession of the tax roll being adjusted shall amend the 1994 tax roll to reflect the exemption
and shall issue a corrected tax bill exempting that qualified agricultural property from the tax levied in 1994 for school operating purposes to the extent provided under section 1211 of Act No. 451 of the Public Acts of 1976 pursuant to subsection (1).

(11) If the July or December board of review in 1997 denies a claim of exemption for 1994 under subsection (9). An owner may appeal that denial to the residential and small claims division of the Michigan tax tribunal within 35 days of that denial.