STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

JAMES J. BLANCHARD
GOVERNOR

ROBERT A. BOWMAN
STATE TREASURER

REVENUE ADMINISTRATIVE BULLETIN 1989-47

Agriculture Exemption

Approved May 31, 1989

(Replaces Single Business Tax Bulletin 1978-2)

The purpose of this Bulletin is to explain the agricultural production exemption provided for in the Single Business Tax Act, MCL 208.35(1)(h).

The Single Business Tax Act, P.A. 273 of 1977, provides an exemption for the production of agricultural goods applicable to tax years beginning on or after January 1, 1977.

Sec. 35(1)(h) states:

There shall be exempt from the tax imposed by this act: That portion of the tax base attributable to the production of agricultural goods by a person whose primary activity is the production of agriculture goods. 'Production of agricultural goods' means commercial farming including, but not limited to, cultivation of the soil, growing and harvesting of any agricultural, horticultural or floricultural commodity, dairying, raising of livestock, bees, fish, fur-bearing animals or poultry, or turf or tree farming, but not including the marketing at retail of agricultural goods.

Definitions

Sec. 2(2) states:

A term used in this act and not defined differently shall have the same meaning as when used in comparable context in the laws of the United States relating to federal income taxes in effect for the tax year unless a different meaning is clearly required. A reference in this act to the internal revenue code includes other provisions of the laws of the United States relating to federal income taxes.

The IRS definition of "the business of farming" (Treas. Reg. 1.175-3) states as follows:

A taxpayer is engaged in the business of farming if he cultivates, operates, or manages a farm for gain or profit, either as owner or tenant.... A taxpayer engaged in forestry or the growing of timber is not thereby engaged in the business of farming. A person cultivating or operating a farm for recreation or pleasure rather than a profit is not engaged in the business of farming. For the purpose of this section, the term 'farm' is used in its ordinary, accepted sense and includes stock, dairy, poultry, fish, fruit, and truck farms, and also plantations, ranches, ranges, and orchards. A fish farm is an area where fish are grown or raised, as opposed to merely caught or harvested; that is, an area where they are artificially fed, protected, cared for, etc.

Farm and Non-Farm Activities

The exemption from Single Business Tax (SBT) for commercial farming is limited to a farmer engaged in the active production of agricultural goods, including the cultivating of the soil and growing and harvesting of the agricultural goods, but not including the forestry or timber industry, or commercial fishermen. Commercial farming also includes certain activity required in the storage and/or non-retail marketing of agricultural goods produced by the owner.

Examples of farm activity:

1. The planting, cultivating and harvesting of agricultural goods.

2. The drying, packing, packaging, processing, freezing, and grading of owner- produced agricultural goods (i.e., cutting, drying, and packaging fruits or vegetables).

3. The storing or delivering to storage, or retail market, or a carrier of transportation to market of owner-produced agricultural goods.

Examples of non-farm activity:

1. Processes which change the agricultural good from its raw or natural state (i.e., extraction of juices from fruits or vegetables and processing of maple sap into maple syrup or maple sugar).

2. Processes after the character of the agricultural goods has been changed from its raw or natural state.

3. Services performed on agricultural goods belonging to others.

4. Processes in connection with commercial canning or commercial freezing or in connection with any agricultural goods after its delivery to a terminal market for distribution for consumption.

5. Processes in connection with marketing agricultural goods at retail. This includes all activities necessary to market the goods to the final consumer but does not include the farm activities defined in farm activity examples 1 and 2 above.

Filing Requirements

This exemption is available to persons whose "primary activity" is the production of agricultural goods. Primary activity is determined by comparing the tax base attributable to farm and non-farm activity. (The tax base computation is found on line 12a of form C-8000, SINGLE BUSINESS TAX ANNUAL RETURN.)

1. If the tax base attributable to farm activity is equal to or less than the tax base attributable to non-farm activity, then farming is not the "primary activity" and there is no exemption for any of the activity. SBT is computed on the farm and non-farm activity.

2. If the tax base attributable to the farm activity is greater than the tax base attributable to non-farm activity, then the taxpayer's primary activity is farming. SBT is computed only on the non-farm activity.

Filing an annual SBT return is required if gross receipts from non-farm activity are greater than $40,000.

Where the taxpayer's primary activity is farming and the taxpayer is required to file SBT because of non-farm activity, then certain credits against the tax, exemptions from the tax, and reduction to tax base are calculated based on the total tax base from non-farm and farm activities. This total tax base must be used in calculating the statutory exemption [Sec. 35(1)(a)], reduction to adjusted tax base [Sec. 31], small business credit [Sec. 36], unincorporated/sub-chapter S corporation credit [Sec. 37] and the farmland preservation credit [P.A. 116 of 1974].

Prorating Farm/Non-Farm Activity

A taxpayer must allocate farm and non-farm activities in accordance with good accounting procedures. The Department will audit accounting procedures to determine if the tax base properly reflects the taxable non-farm activity. In determining non-farm activity, if goods are transferred from the farm activity to the non-farm activity, then the "fair market value" of these goods shall be used to determine the value.

Filing Notes

1. A farm loss cannot be used against a non-farm gain because all components of the tax base, including the recapture of a capital acquisition deduction or a business loss from a prior year, would not be reflected in a return filed for the non-farm activity. The statute indicates that that portion of the tax base attributable to agricultural producing is exempt.

2. A capital acquisition deduction shall be prorated on the basis of the percentage of use for the non-farm activity.

3. The amendment exempts only that farm income of a person who is engaged in the cultivating, growing and harvesting of the agricultural goods, but does not include a person selling farm equipment and supplies.

4. An out-of-state person having both non-farm and farm activity would exclude farm activity from the single business tax base in the same manner as an instate person.

5. A corporate farmer can use the farmland preservation tax credit against the single business tax liability from a non-farm activity. Any unused credit is refundable.

6. The agricultural production exemption is not an exemption for the person, but is an exemption for the activity of producing agricultural goods. A lessor leasing land to an agricultural producer is not engaged in an agricultural producing activity and would not qualify for the exemption.