



INFORMATIONAL NOTICE INHERITANCE TAX 2012-01

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Inheritance Tax Exemptions for Agricultural Commodities, Agricultural Conservation Easements, Agricultural Reserves, Agricultural Use Property and Forest Reserves

Act 85 of 2012 provides an exemption for the transfer of the following items to lineal descendants or siblings as defined by the Inheritance and Estate Tax Act of 1991.

1. Agricultural commodities – Any and all plant and animal products, including Christmas trees produced in Pennsylvania for commercial purposes.
2. Agricultural conservation easements – An interest in land, less than fee simple, representing the right to prevent the development or improvement of a parcel for any purpose other than agricultural production.
3. Agricultural reserves – Noncommercial open space lands used for outdoor recreation or the enjoyment of scenic or natural beauty and open to the public for such use, without charge or fee, on a nondiscriminatory basis.
4. Agricultural use property – Land used for the purpose of producing an agricultural commodity or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with a federal agency.
5. Forest reserves – Land of ten acres or more that is stocked by forest trees of any size and capable of producing timber or other wood products.

Estates that claim the exemption discussed above are *not* required to meet the annual certification or gross income requirements discussed below.

Inheritance Tax Exemption for Real Estate Used In the Business of Agriculture

Act 85 also provides an exemption for real estate devoted to the “business of agriculture” that is transferred to a more broadly defined set of family members. The exemption may be claimed for an entire tax parcel of property or for a portion of a tax parcel. The exemption includes buildings located on the real estate, which are used in the “business of agriculture.” In order to qualify for the exemption, the real estate must:

1. Be transferred to members of the same family,
2. Be devoted to the business of agriculture at the time of the decedent’s death, and must continue for a period of seven years after the owners’ date of death, and
3. Produce annual gross income of at least \$2,000 in the business of agriculture for a period of seven years after the decedent’s date of death.



The exemption includes real estate leased to members of the same family or leased to a business owned by members of the same family which is directly and principally used for agricultural purposes. Real estate leased to unrelated third parties, or leased for non-agricultural purposes, is not exempt.

Residential homes on a real estate parcel that otherwise qualifies for the exemption will be presumed to be used in the business of agriculture. Commercial buildings not used in the business of agriculture are not exempt.

The statute does not provide a tax exemption for real estate used for the following activities:

1. Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing;
2. The raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities;
3. Fur farming;
4. Stockyard and slaughterhouse operations; or
5. Manufacturing or processing operations of any kind.

Real estate used for non-exempt purposes, even if affixed to exempt real estate, must be valued separately and included in the taxable estate for inheritance tax purposes. This exemption does not apply to any equipment, cash or any other assets of the farm business except for real estate.

For purposes of the "business of agriculture" exemption, the statute defines "members of the same family" as follows:

Any individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants of any of the foregoing, a spouse of any of the foregoing and the estate of any of the foregoing. Individuals related by the half blood or legal adoption shall be treated as if they were related by the whole blood.

In order to maintain the exemption, each member of the same family who has inherited real estate on which the business of agriculture exemption was claimed must file an annual certification on a form provided by the Department of Revenue for a period of seven years beyond the decedent's date of death. If during the seven year post-death period the real estate ceases to be used in the "business of agriculture" at any point or does not generate a minimum of \$2,000 of gross income in any year, the owner(s) will be liable for Inheritance Tax in the amount that would have been paid on the fair market value of the real estate as of the date of the decedent's death, plus interest.