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New York Real Property Taxes – Protecting and Maximizing Your Farm's Agricultural Exemptions

By Dan Hubbell, Associate

Not long ago, a local farmer reached out to Whiteman Osterman & Hanna LLP asking whether we could help her reduce the assessment on her farm. Her farm operation was a relatively small 100+ acre dairy farm with around 50-60 head of cattle. She had a couple of houses on the property, as well as a modest barn complex. Notably, she had applied for and received real property tax exemptions for the farm property, in particular the agricultural assessment program and new farm structure exemptions. Even with the exemptions applied to the property, she was still saddled with an annual tax bill that exceeded $20,000 and despite her best efforts to obtain a reduction in her assessment, she had been unsuccessful thus far. Given that the farm operation was her only source of income, the significant property tax bill had driven her to the inevitable decision to sell the farm. However, due in part to the relatively high property taxes, she had not received any offers to purchase the property except for one, which was about 30% lower than the assessed value.

After reviewing the municipality's assessment roll and the property record card on file with the municipal assessor, we reached out to a local appraiser who specializes in valuing farm properties. The appraiser found that though the farm was not over-assessed, the allocation of the assessed value between the improvements located on the farm and the farm land was grossly disproportional. In this case, the municipal assessor had allocated 86% of the assessed value to the improvements, with the remaining 14% allocated to the land.

This is a problem we often see with farm properties throughout New York State. Under New York's Real Property Tax Law (the "RPTL"), farm properties can benefit from significant tax savings through the application of real property tax exemptions to the assessment roll.[1] However, even though a farm may receive these exemptions, many times – due either to misapplication or improper valuation – a farmer does not receive the full benefit of these tax exemptions.

Agricultural Farm Land Exemptions

Under the RPTL and Agriculture and Markets Law ("AML"), farm land at least seven acres in size and used in the preceding two years for the production for sale of crops, livestock, or livestock products, will generally qualify for New York's agricultural assessment program;

[1] See REAL PROPERTY TAX LAW ("RPTL") §§ 481, 483, 483-a, 483-b, 483-c, 483-d, and 483-e.

provided the average annual gross sales of agricultural products for the preceding two year is at least $10,000.[2] Under the AML, farm land is to be assessed based upon the uniform statewide land classification system used by the New York State Department of Agriculture and Markets.[3] Essentially, the assessed value of the farm land, or agricultural assessment, is based on the value of its soils (e.g. the agricultural assessment value). The municipal assessor calculates the agricultural assessment by multiplying the acreage in each soil group located on the farm land by the applicable agricultural assessment value. The sum of the values is then multiplied by the municipality's latest State equalization rate, which then results in the agricultural assessment for the farm land. The assessor then compares the agricultural assessment to the municipality's assessed value of the farm land. Any assessed value greater than the agricultural assessment is exempt from real property taxes. The following example will further illustrate:

A farmer owns a 100-acre farm that produces greater than $10,000 in average annual gross sales of agricultural products. The farm land is part of the agricultural assessment program and its agricultural assessment, as determined under the AML, is $100,000. The assessed value of the entire farm, including both land and improvements, is $1,000,000, and the municipality's State equalization rate is 100%. Of that total assessed value, the assessed value to the farm land, as determined by the assessor, is $300,000. Accordingly, the real property tax exemption of the farm land is the difference between the $300,000 assessed value and the $100,000 agricultural assessment, which is $200,000. In a municipality where the combined tax rate is $30.00 per 1,000 of assessed value, the $200,000 exemption results in a tax savings of $6,000 per year.

However, let's say the actual market value to the farm land in the above example, as determined by an independent real estate appraiser, is $600,000, and the value to the farm improvements is $400,000. If the municipal assessor was to adopt the appraiser's allocation of value, then the real property tax exemption of the farm land would be $500,000 ($600,000 assessed value minus $100,000 agricultural assessment). The difference in assessed value ($200,000 versus $500,000) results in $300,000 of assessed value that the farm would otherwise not be taxed on if the allocation of assessed value between the farm land and improvements was correct. Applying a combined tax rate of $30.00 per 1,000 of assessed value, the $500,000 exemption results in a tax savings of $15,000, which is an increase in savings to the farmer of $9,000 a year.

Other Agricultural Exemptions

The above example only illustrates one of the many potential misapplications of real property tax exemptions to farm land in New York State. Other agricultural exemptions that have

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[2] RPTL § 481; AGRICULTURE AND MARKETS LAW ("AML") § 301.
[3] AML § 304-a.

the potential for misapplication include the forestry exemption;[4] the 10-year exemption for new farm structures;[5] the full exemption of temporary greenhouse structures (e.g. cover-all buildings),[6] commodity storage facilities (e.g. farm silos, grain storage bins, commodity sheds, bulk milk tanks and coolers, and manure storage and handling facilities),[7] farm labor housing,[8] and anaerobic digestion facilities;[9] and the partial exemption of historic barns.[10] In addition, the roll-back penalties for violating the conditions of some of these exemptions can be incredibly harsh.

Given the complexity of these exemptions and the unforgiving deadlines to apply for or appeal the denial or misapplication of these exemptions, consulting competent legal counsel at the outset is advisable. In the case discussed at the beginning of this article, the farmer had successfully applied for and received both the agricultural assessment program exemption and the 10-year new farm structure exemption. Even though the property benefited from these exemptions, the disproportionate allocation of the assessment to the improvements on the property denied the farmer the full exemption she was entitled to. Through our representation, we were able to secure a reduction in her tax bill of 40%, without any reduction in the assessed value of the property.

Procedures for Challenging Assessments and Exemptions

Agricultural exemption applications must be filed with the local assessor prior to the taxable status date, which is March 1st in most municipalities. Whether granted or denied, the assessor will then issue the tentative assessment roll no later than May 1st for most municipalities. At that point, property owners may "grieve" their assessment by applying for relief to the Board of Assessment Review (the "BAR"). The deadline to grieve is usually the 4th Tuesday in May ("Grievance Day"). The BAR will generally hear from the property owners on or shortly after Grievance Day, depending on the procedure of each municipality. After the BAR's determination of any grievances timely filed with the municipality, the assessor will issue the final assessment roll on July 1st.

If a property owner remains unsatisfied with the determination of the BAR as to the assessed value of the property, property owners may still challenge the assessment. A petition must be filed in court no later than July 30th. Proper notices of the petition must be sent to the

[4] RPTL § 480-a.
[5] RPTL § 483.
[6] RPTL § 483-c.
[7] RPTL § 483-a.
[8] RPTL § 483-d.
[9] RPTL § 483-e.
[10] RPTL § 483-b.

taxing jurisdictions and filed with the clerk. The timing for grievances, petitions, and notices are firm, and failure to meet these deadlines will bar all challenges for the assessment year.

Conclusion

In a state with the highest property tax burden in the country, and an industry where margins can be razor thin, the property taxes assessed against a farm can make or break the farm operation. While New York State provides exemptions to lighten the load on farmers, misapplication of these exemptions can put a farmer out of business. While all New Yorkers should be paying their fair share of property taxes, New York farmers should not be paying more than they are required to under the law.

Dan Hubbell, an associate with Whiteman Osterman and Hanna, LLP, represents both public and private entities regarding matters involving real property tax assessment negotiation and litigation. Prior to practicing law, Dan was a commercial real estate appraiser in New York State, and performed numerous appraisal assignments involving the valuation of farm land, conservation easements, luxury residences, and other farm-related properties. Dan is a licensed New York State General Real Estate Appraiser and often lectures at appraisal seminars throughout the State. To discuss further, you can contact Dan at dhubbell@woh.com *or by telephone at (518) 487-7692.*