

INDIVIDUAL INCOME TAX

FARMLAND PRESERVATION TAX CREDIT

www.michigan.gov/taxes



- ✦ When e-filing your *2012 Farmland Preservation Tax Credit Claim* (MI-1040CR-5) with your *Michigan Individual Income Tax* (MI-1040), you must also file a completed *Homestead Property Tax Credit Claim* (MI-1040CR or MI-1040CR-2) or *Home Heating Credit Claim* (MI-1040CR-7), even if you are not qualified to receive these credits.
- ✦ E-filed returns are usually processed within 14 business days (see page 15). Please allow 14 days before checking the status of your e-filed return.
- ✦ 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.
- ✦ Visit the Michigan Department of Treasury Web site at www.MIfastfile.org for a list of e-file resources, how to find an e-file provider, and more information on free e-file services.

WWW.MIFASTFILE.ORG



MAILING ADDRESS. Mail your return and attachments to the address on your *2012 Michigan Individual Income Tax Return* (MI-1040).

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

FARMLAND AND OPEN SPACE PRESERVATION ACT PUBLIC ACT 116 OF 1974, AS AMENDED.

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

Important Information

What's New for 2012

Household income is replaced by total household resources which excludes net losses from business (including farm), rental and royalties and also excludes net operating losses. For additional information regarding total household resources, see page 23 of the MI-1040 instruction book.

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 total household resources
- 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 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

(517) 636-4486

Automated Information Service

With Treasury's automated phone system, you can:

- Request the status of your refund
- Check the status of letters you have sent to Treasury
- Request information on estimated payments
- Order current tax year forms.

While most questions can be answered by the Automated Information Service, customer service representatives are available from 8 a.m. to 4:45 p.m., Monday through Friday. Assistance is available using TTY through the Michigan Relay Service by calling 1-800-649-3777 or 711. Printed material in an alternate format may be obtained by calling (517) 636-4486.

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) or *Michigan Homestead Property Tax Credit Claim for Veterans and Blind People* (MI-1040CR-2) must be filed to include your total household resources, even if you are otherwise not entitled to these credits.

Important Reminders

Deduct all special assessments, penalties, interest, and other non-allowable charges from property tax statements.

- Include your previous year's Farmland Preservation Tax Credit in federal AGI.
- Enter the **most current** agreement numbers on Schedule CR-5 and also write them on your 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 statement 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 digits represent the county code where the property is located, (2) the middle portion is the actual contract number, and (3) the last six numbers are the expiration date. If the agreement has been split, it will have a letter added after the contract numbers.
- Include the 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 copies of your 2012 property 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 6 of the MI-1040 booklet. Mail your return and attachments to the address under "Where to Mail Your Return" on your MI-1040.

General Information

What is the Farmland Preservation Tax Credit?

The Farmland Preservation Tax 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 and Rural Development (MDARD), and
- You are eligible to file an 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 land.

Caution: The FDRA restricts development of your land. Before making any changes to property covered under this agreement or to its ownership, consult the MDARD. 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 MDARD 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 2012 property tax statements that show the taxable value, the property taxes levied, and the corresponding agreement numbers.
- A 2012 MI-1040CR with a completed schedule of total household resources **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 2011 or 2012 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, 2012, for you to claim a 2012 credit for that agreement. The new FDRA is not final until you receive a copy from the MDARD 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 2013, 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-12).

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 previously.

Form 4594 can be found at www.michigan.gov/taxes or by calling (517) 636-4486.

What to Do With a Jointly Payable Check

Take the check, remittance advice, 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 2012 on enrolled land can be claimed for the 2012 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	<i>May be claimed for credit</i>

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

Computing the Homestead Property Tax Credit

You must include your total Farmland Preservation Tax Credit amount on your MI-1040CR, MI-1040CR-2 or your MI-1040CR-7. Enter the amount of credit you received in 2012 on the MI-1040CR, line 16, MI-1040CR-2, line 15, or MI-1040CR-7, line 18. Homestead Property Tax Credits are not included in Michigan total household resources. If

you included this amount in your taxable farm income, you may subtract it from your total household resources.

Effect on Your 2012 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.

$$\frac{\text{TV of farmland portion of homestead and buildings}}{\text{Total taxable value}} \times \text{2011 Homestead Property Tax Credit amount}$$

= Portion of Homestead Property Tax Credit that is business income

You must include your 2011 Farmland Preservation Tax Credit amount and the business portion of your 2011 Homestead Property Tax Credit in your 2012 federal AGI. If you own your property as an individual but the farming activity is operated under a partnership, S-Corp or LLC, report the Farmland Preservation Tax Credit on your personal return.

Was your 2011 tax refund (MI-1040, line 37) greater than the amount of your 2011 *Farmland Preservation Tax Credit* (MI-1040, line 25) 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 2012 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 signed statement 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 Michigan Business Tax (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 2012 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 MDARD in the same

name as your deed. You must prorate the 2012 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 MDARD will need a copy of the legal document (e.g., deed, land contract) 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 and Rural
Development
P.O. Box 30449
Lansing, Michigan 48909

Line-by-Line Instructions for 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 last six numbers are the year of expiration, (i.e., 123112 is December 31, 2012). 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 2012 tax statement that corresponds to the agreement number listed.

Column B: List the 2012 taxable value for each agreement that you owned in 2012. 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 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 box if you attached paid tax receipts for 2011 or 2012. If paid receipts are not attached, do not check the box. If you do not check the box, your Farmland Preservation Tax Credit will be issued jointly to you and the treasurer for the county where the property is located.

Note: Copies of your 2012 property tax statements must be attached regardless of whether the box is checked in column C. If you e-file your MI-1040CR-5, the box must indicate whether your 2011 or 2012 property taxes are paid (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 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 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.

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: Check the box if all of the taxes that qualify for a Homestead Property Tax Credit are included in the total on line 4.

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

Line 8: Enter your total household resources from your MI-1040CR, MI-1040CR-2, or MI-1040CR-7. If you are a part-year or nonresident, include total 2012 total household resources, regardless of source.

Line 13: Enter amount of property tax from line 4. This line **must be completed**.

Line 17: If line 17 is less than line 7, carry amount from line 15 to Form MI-1040, line 26. If line 17 is greater than line 7, complete lines 18 through 20.

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.

PART 3: If you had net losses from business (including farm) after netting all business income and loss, net rental or royalty losses, or net operating loss deductions, complete Part 3.

Line 21: Add the amounts from:

- U.S. Schedule C (Profit or Loss from Business).
- Part II (Ordinary Gains and Losses) of the U.S. Form 4797.
- Part II (Income or Loss from Partnership and S Corporations) and Part III (Income or Loss from Estates and Trusts) of the U.S. Schedule E.
- Include income items reported as a distributive share.

Line 22: Enter income or loss from U.S. Schedule F (Profit or Loss from Farming)

Line 23: Total must be less than zero. If the total is positive enter "0."

Line 24: Add the amounts from:

- Part I (Income or Loss from Rental Real Estate and Royalties) of the U.S. Schedule E.
- Part IV (Income or Loss from Real Estate Mortgage Conduits (REMIC)) of the U.S. Schedule E (rents, royalties).
- Part V (Net farm rental income or (loss) from Form 4835) of the U.S. Schedule E.

Total must be less than zero. If the total is positive enter "0".

Line 25: Enter the lesser of your federal net operating loss (NOL) or federal modified taxable Income (FMTI). Compute your FMTI using page 3 of Form MI-1045.