



Guideline

Income Tax Beginning Farmer Income Tax Deductions

Cory Fong
Tax Commissioner

Introduction

This guideline explains the income tax deductions available to a landowner who sells or leases farmland to a beginning farmer.

Landowner defined

“Landowner” means an individual, estate, trust, or partnership (including a limited liability company that is treated as a partnership under U.S. and North Dakota income tax laws) owning land located in North Dakota, provided the land was not acquired solely for the purpose of qualifying for the beginning farmer income tax deductions. Spouses who jointly own land are considered one landowner.

Beginning farmer defined

“Beginning farmer” means an individual who:

1. Is at least eighteen years of age;
2. Is a legal resident of North Dakota;
3. Has a net worth (including the net worth of a spouse and/or dependents) of less than \$100,000;
4. Intends to use the purchased or leased land for agricultural purposes;
5. Receives more than one-half of annual gross income from farming, unless the individual initially commences farming during the tax year for which a beginning farmer deduction will be taken; **AND**
6. Has had adequate training by education in the type of farming which the individual wishes to conduct on the leased or purchased land through satisfactory participation in either (1) the adult farm management education program of the State Board for Career and Technical Education or (2) an equivalent program approved by the North Dakota Commissioner of Agriculture.

Spouses jointly purchasing or leasing land. Spouses who jointly purchase or lease land from a landowner are considered one beginning farmer.

Calculating net worth. The net worth must be determined as of the date the contract for purchase or lease is executed. To calculate net worth, add up the fair market value of all assets and subtract the total amount of all liabilities. However, the fair market value (and related liabilities) of a principal residence, one personal or family motor vehicle, and any household and personal goods (such as furniture, appliances and clothing) must be excluded in calculating net worth.

Income tax deductions

There are three separate income tax deductions available to a landowner for selling or leasing land to a beginning farmer. The amount of any deduction is limited to the amount included in taxable income for U.S. income tax purposes for the year in which the deduction is claimed. The three deductions, along with the provisions unique to each one, are described below.

28218 (March 2004)

- **Deduction for gain from sale of land.** If a landowner sells twenty or more acres of land to a beginning farmer, the landowner may deduct the gain from the sale in calculating North Dakota taxable income. If the sale is made under a contract that provides for installment payments, the deduction is allowed for each tax year in which part of the gain is required to be reported for U.S. income tax purposes.
- **Deduction for interest income from a contract for deed.** If a landowner sells eighty or more acres of land to a beginning farmer under a contract for deed having a term of at least ten years, and if the interest rate specified in the contract for deed is equal to or less than the minimum interest rate required under U.S. income tax law in installment (or deferred) payment contracts to avoid the imputing of interest, the landowner may deduct the interest income derived from the contract in calculating North Dakota taxable income.
- **Deduction for net income from a lease contract.** If a landowner leases twenty or more acres of land to a beginning farmer under a written lease contract having a fixed term of at least three years, the landowner may deduct the net income (up to \$25,000 per tax year) under the contract in calculating North Dakota taxable income. A landowner is ineligible for this deduction if the landowner cancels an existing lease contract with another person solely for the purpose of taking advantage of this deduction.

If a lease contract contains provisions that provide for the renewal of the contract on an annual basis, the annual renewal period or periods do not count toward meeting the minimum three-year lease term, nor is the net rental income received for the annual renewal period or periods eligible for this deduction. For example, if a lease contract provides for an initial fixed three-year lease period with an option to renew the contract on an annual basis at the end of the three-year period, this deduction is only allowed for net rental income received for the initial fixed three-year lease period.

Allocation of deduction in the case of a partnership or joint ownership by spouses. If the landowner is a partnership, the allowable deduction(s) must be allocated to the partners based on their respective interests in the partnership. If the landowner consists of two spouses who have a joint interest in the purchase or lease contract, and if the spouses are required to file separate North Dakota individual income tax returns, the deduction(s) must be allocated to the spouses based on their respective ownership interests.

Optional method of filing limitation

The deductions are allowed only if the optional method of filing for an individual, estate or trust is used. In the case of an individual, the deductions are allowed only on Form ND-2 (Optional method). In the case of an estate or trust, the deductions are allowed only on Form 38, Schedule 2 (Optional method). The deductions are not allowed on Form ND-1 or Form 38, Schedule 1. ***Important: Because of this limitation, the tax liability should be calculated under both methods of filing—Form ND-1 and ND-2 (if an individual) or Form 38, Schedule 1 and 2 (if an estate or trust)—to see which method yields the lowest tax for the year.***

Beginning farmer statement

A landowner must obtain a Beginning Farmer Statement from the Office of State Tax Commissioner which must be completed and attached to the landowner's North Dakota income tax return. The statement has two parts: Part 1 (Beginning Farmer Certification) must be completed in all cases by the individual who qualifies as a beginning farmer. Part 2 (Landowner Rental Certification) must be completed by a landowner only if a deduction for net income from a lease contract is claimed.

The landowner must attach the completed Beginning Farmer Statement to the landowner's income tax return for each tax year in which a deduction is claimed. The landowner may make copies of the statement, as needed, for this purpose. The landowner should also keep a copy.

Need help?

Phone: (701)328-1247

Speech/hearing impaired — call us through Relay North Dakota at 1-800-366-6888

E-mail: individualtax@nd.gov

Web site: www.nd.gov/tax

Write: Office of State Tax Commissioner, 600 E. Blvd. Ave., Dept. 127, Bismarck, ND 59505-0599