



WISCONSIN DEPARTMENT OF AGRICULTURE,  
TRADE & CONSUMER PROTECTION  
Division of Agricultural Resource Management  
Bureau of Land Resources  
P.O. Box 8911  
Madison, WI 53708-8911  
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## TAX CREDIT PAYBACK INFORMATION SHEET

### Why is there a tax credit payback?

Wisconsin state law requires the Department (DATCP) to recapture credits received in the past 10 years when land is removed from the Farmland Preservation Program. The purposes of this requirement are:

- (1) To recapture the state's investment in farmland converted to other uses or not formally protected for future generations.
- (2) To discourage speculative purchases of farmland for future development.

The legislature created the tax credit payback because it did not want Wisconsin taxpayers subsidizing farmland held for future development. These informational sheets seek to explain the tax payback as simply as possible.

### When is a tax credit payback due?

Under current law there are several instances when farmland is considered removed from the program and a tax credit payback is required. The table below lists these situations, along with the statutory citation, the interest rate, and the date when the interest is applied.

**Tax Credit Payback Provisions**

Farmland removed by	Statutory citation	Interest rate	Date applied
<b>Agreements</b>			
Foreclosure/bankruptcy	91.19(2)(b)1	6%	Credit claimed
Significant changes to land	91.19(2)(b)2	6%	Credit claimed
Surrounding conditions	91.19(2)(b)3	6%	Credit claimed
Local economic development	91.19(2)(b)4	6%	Credit claimed
Transfer of land for certain uses (Ag-related, util., etc.)	91.19(2)(b)5	6%	Credit claimed
Upon landowner request after 10 years	91.19(6t)	9.3%	Credit claimed
Expiration and nonrenewal*	91.19(1)	Repealed	Repealed
Death or total disability*	91.17(2)	Repealed	Repealed
<b>Exclusive Agricultural Zoning</b>			
Rezoning to another district	91.77(2)	6%	Lien is placed
Permanent conditional uses	91.79	6%	Lien is placed
<b>Local Government Action</b>			
Actions initiated by local governments (annexations)	91.77(2)	6%	Lien is placed

Note: A tax credit payback is not calculated on up to 5 acres of land removed from the program due to a farm consolidation under § 91.75(6) for exclusive agricultural zoning and under § 91.17(3) for agreements. See the discussion below for further information.

\*1993 Wisconsin Act 16 repealed the tax credit payback for these two provisions. Previously, both were required to pay back at a 6% interest rate applied from the time the lien is placed.

## How is the tax credit payback calculated?

There are three calculations used to determine the tax payback, which depend upon whether the amount of farmland removed is (1) an entire farm operation, (2) a total tax parcel, or (3) a portion of a tax parcel.

### Entire Farm Operation

When a landowner is granted approval to remove land from the program, either through rezoning or relinquishing the agreement, the payback is the sum of the credit claimed on the land in each year for the past 10 years.

### Total Tax Parcel

When a landowner removes a total tax parcel, the property taxes on that parcel are divided by total property taxes on the farm to allocate the amount of credit claimed on the removed land. The property tax is used to allocate the payback since the credit amount depends on the amount of property tax. The calculation is:

$$\frac{\text{Parcel Property Tax}}{\text{Total Property Tax}} \times \text{Credit} = \text{Tax Payback}$$

The annual tax paybacks are summed to determine the total amount due the state.

### Partial Tax Parcel

When a portion of a tax parcel is removed, another step is required to allocate the property taxes within the parcel. The ratio of land and improvement value\* removed to the total value of the tax parcel is multiplied by the property taxes for the parcel. This determines the amount of property tax removed. The calculation is:

$$\frac{\text{Total Value Removed}}{\text{Total Parcel Value}} \times \text{Parcel Property Tax} = \text{Parcel Property Tax Removed}$$

Now the calculation under "Total Tax Parcel" can be completed. The annual tax paybacks are summed to determine the total amount due the state.

\*The Department uses the assessed value in allocating the property taxes within a parcel. The total value removed is determined by:

$$\frac{(\% \text{ Improvements Removed} \times \text{Improvement Value of Parcel} + \frac{\text{Parcel Land Value}}{\text{Parcel Acreage}} \times \text{Acres Removed})}{\text{Parcel Acreage}}$$

## Who is legally responsible for paying the tax credit payback?

Whoever owns the land when the Department notifies the landowner of the payback is responsible for repayment. A landowner who previously received the tax credits is usually aware of this future liability when land is removed from the program. However, when land is transferred, the new owner may not be aware that the land was in the program. Since there is a significant lag time between when land is removed from the program and notification of the tax payback, the new landowner may be required to pay past credits claimed by a previous owner. Thus, the price of the property should reflect this liability. A lower selling price due to payback liability indicates that state taxpayers have an investment in the land that they are entitled to recover.

## When is a lien placed on the property

When the payback is calculated, the Department notifies the landowner of the amount due. The landowner is given 30 days to pay the amount in full. The Department does not accept partial payments through an installment plan. After the 30 days has lapsed, the Department places a lien on the property. In most situations, an annual interest rate of 6% begins accruing when the lien is placed. See the table on page 1 to determine the applicable interest rate and the date it is applied.

## Are there ways to satisfy the tax payback other than by payment?

A lien may be placed on property that is removed from the program. The only method other than payment to satisfy the lien is by rezoning the land back into exclusive agricultural use, or placing the land under a farmland preservation agreement. Typically this is an alternative only for farmland under agreement that has expired and has not been renewed. In this situation, the landowner may apply for a new agreement that would include all or a portion of the land. If all of the land is included, the lien will be removed. If a portion of the land is included, the payback will be recalculated for the property not included in the new agreement and a lien will remain on that property. This situation, of course, assumes that a landowner meets the program's eligibility requirements and the agreement is approved by the county.

## How do I get tax credit information?

Individuals who wish to estimate the amount of payback can do so by estimating the maximum amount of payback that would be due. This method of estimation uses available property tax information and the level of credit under the tax credit formula. Property tax information is available through the local clerk's office and should be used according to the calculations listed on page 2. Then determine how the land was in the program—by agreement or exclusive agricultural zoning. The maximum credit under an agreement is \$3,360 and \$4,200 under zoning.

As an example, assume a landowner under an agreement was removing a tax parcel with property taxes in 1994 of \$1,000 and had total property taxes of \$6,000 that year. The maximum payback would be:

$$\frac{\$1,000}{\$6,000} \times \$3,360 = \$560$$

Under Wisconsin state law, individual income tax information is confidential and the terms of release are fairly restrictive. A credit claimant or person having power of attorney for the claimant may receive their own tax credit information by writing to the Department of Revenue. If you are not the landowner who received the credit or are a prospective buyer, you must get this information from the credit claimant. The letter must specify the persons who claimed the credit, their social security numbers, the tax years for which you want information, and the address to which the information should be sent. The credit claimant's signature must be on the letter. The sample letter on page 4 indicates the information the Department of Revenue will need to answer your request.

## Sample Letter

Department of Revenue  
P.O. Box 8906  
Revenue Audit Bureau - Farmland  
Madison, WI 53708

Dear Farmland Auditor:

I am writing to request a list of the Farmland Preservation credits my husband and I, John Z. and Mary G. Smith, have received for tax years 1984 through 1994. You may send the information to me at the address under my signature. My social security number is 123-44-6789 and John's social security number is 987-65-4321. If you have any questions about this request, I can be reached at (608) 555-5555.

Sincerely,

Mary G. Smith  
123 Prairie Road  
Vermont, WI 55401

For more information,  
call (608) 224-4634

or write

the Farmland Preservation Program,  
Department of Agriculture, Trade and Consumer Protection,  
P.O. Box 8911  
Madison, WI 53708-8911