



Guide to Starting a Farm Business in New York State

**A Resource Guide for the Rural Landowners and Beginning Farmer
Focused on Business and Regulatory Requirements
Applicable and Unique to Agriculture**

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Information compiled by

Monika Roth, Ag Development & Marketing Specialist, South Central NY Agriculture Program
Jacob Schuelke, Farm Management Specialist, Cortland-Tioga-Tompkins Area Dairy Team

Contact Info:

Monika Roth
mr55@cornell.edu
607-272-2292

Jacob Schuelke
jes56@cornell.edu
607-272-2292

Website: www.cce.cornell.edu/scnyag

Contents

BUSINESS CONSIDERATIONS.....	4
<input type="checkbox"/> CONSTRUCT A WRITTEN BUSINESS PLAN.....	4
<input type="checkbox"/> UNDERSTAND THE FIVE DIFFERENT TYPES OF BUSINESS STRUCTURES ALLOWED IN NEW YORK STATE.....	4
<input type="checkbox"/> REGISTERING YOUR BUSINESS NAME: DOING BUSINESS AS (DBA).....	4
MORE BUSINESS CONSIDERATIONS	5
<input type="checkbox"/> UNDERSTAND LABOR LAWS AND REGULATIONS	5
<input type="checkbox"/> INSURANCE	5
<input type="checkbox"/> ZONING	5
FINANCING OPTIONS	6
<input type="checkbox"/> COMMON STRATEGIES USED TO GET STARTED WHEN YOU HAVE LITTLE OR NO EQUITY	6
<input type="checkbox"/> GOVERNMENT PROGRAMS FOR LAND IMPROVEMENTS	6
INCOME TAX CONSIDERATIONS.....	7
<input type="checkbox"/> HAVE A GOOD BUSINESS RECORDS SYSTEM THAT YOU USE AND KEEP UPDATED	7
<input type="checkbox"/> DECIDE WHETHER YOU ARE A SCHEDULE F OR C OPERATION	7
<input type="checkbox"/> FARMER'S SCHOOL TAX CREDIT	7
PROPERTY TAX EXEMPTIONS FOR FARMERS - LAND.....	8
AGRICULTURAL ASSESSMENT	8
APPLICATION PROCESS.....	9
PROPERTY TAX EXEMPTIONS FOR FARMERS - LAND.....	10
FOREST TAX EXEMPTIONS – 480-A.....	10
WHERE TO GET MORE INFORMATION –	10
PROPERTY TAX EXEMPTIONS FOR FARMERS - BUILDINGS.....	11
<input type="checkbox"/> 483- PRODUCTION AND STORAGE FACILITIES	11
<input type="checkbox"/> 483-A - AGRICULTURAL STRUCTURES WITH LIMITED USES.....	11
<input type="checkbox"/> 483-B - HISTORIC BARNs	12
<input type="checkbox"/> 483-C – TEMPORARY GREENHOUSES	12
<input type="checkbox"/> 483-D – FARM OR FOOD PROCESSING LABOR CAMPS OR COMMISSARIES	12
<input type="checkbox"/> WHERE TO GET MORE INFORMATION –	12
SALES TAX EXEMPTIONS/REFUNDS FOR FARMERS	13
<input type="checkbox"/> ST-125 FARMER'S AND COMMERCIAL HORSE BOARDING OPERATOR'S EXEMPTION CERTIFICATE.....	13
<input type="checkbox"/> PR-955 CLAIM FOR REFUND BY FARMERS AND COMMERCIAL HORSE BOARDING OPERATORS	13
<input type="checkbox"/> FT-1004 CERTIFICATE FOR PURCHASES OF DIESEL MOTOR FUEL OR RESIDUAL PETROLEUM.....	13
<input type="checkbox"/> FT-500 APPLICATION FOR REFUND OF SALES TAX PAID ON AUTOMOTIVE FUELS.....	13
<input type="checkbox"/> DTF-803 CLAIM FOR SALES AND USE TAX EXEMPTION	13
<input type="checkbox"/> ST-126 EXEMPTION CERTIFICATE FOR PURCHASE OF RACEHORSES.....	13
<input type="checkbox"/> NEED HELP? TELEPHONE ASSISTANCE IS AVAILABLE M-F 8:30 AM-4:25 PM.....	13
COLLECTING SALES TAX ON FARM SALES.....	14
EXEMPT FARM SALES.....	14
TAXABLE FARM AND FOOD SALES	14
BECOMING A SALES TAX VENDOR - FORM DTF-1 - CERTIFICATE OF AUTHORITY	14
NYS DEPT. OF TAXATION AND FINANCE PUBLICATION 750.....	14
WALK-IN ASSISTANCE.....	14
ENVIRONMENTAL LAWS AND REGULATIONS	15

<input type="checkbox"/>	CERTIFICATION OF PESTICIDE APPLICATORS	15
<input type="checkbox"/>	CAFO REGULATIONS.....	15
MARKETING REGULATIONS		16
	SELLING PLANTS	16
	SELLING PRODUCE	16
	SELLING MEATS	16
	SELLING DAIRY PRODUCTS	16
	SELLING EGGS	16
	SELLING HONEY-MAPLE SYRUP.....	16
	CIDER	17
	MAKING/SELLING WINE.....	16
MARKETING OF PROCESSED FOODS.....		17
	HOME PROCESSING EXEMPTION	17
	FOODS THAT MAY NOT BE SOLD AT FARM MARKETS INCLUDE:	17
	REGULATED ACTIVITIES – ARTICLE 20-C LICENSE	17
	FOR MORE INFORMATION, CONTACT NYS AG & MARKETS:	17
OTHER MARKETING REGULATIONS.....		18
NYS FOOD LABELING LAW		18
	PACKAGING AND LABELING REQUIREMENTS FOR SALE AT FARM MARKETS	18
	FOOD SERVICE ESTABLISHMENTS	18
	FOOD SAFETY	18
	BUREAU OF WEIGHTS AND MEASURES	18
	FOOD STAMPS.....	18
	ORGANIC CERTIFICATION.....	18
GRANTS		19
OTHER RESOURCES		19

Business Considerations

□ **Construct a Written Business Plan**

A business plan is a document that summarizes the operational and financial objectives of a business and contains the detailed plans and budgets showing how the objectives are to be realized. It is crucial that you understand and are comfortable with the risks and potential pitfalls of your business before you invest the time and money that other parts of this guide will require.

The Northeast Center for Food Entrepreneurship (1-888-624-6785) has a good two page guide to get you started on a written business plan. The New York State FarmNet (<http://www.nyfarmnet.org/>) has a more detailed book designed to help you write your plan. The Small Business Administration also has a lot of great plan development resources and sample plans available at <http://www.sba.gov/>.

In addition, most county extension offices and small business development centers (<http://www.nyssbdc.org/>) have staff to help you write your plan for no or nominal fee's.

□ **Understand the Five Different Types of Business Structures Allowed in New York State**

Sole proprietorships, partnerships, limited liability companies, C and S type corporations, partnerships, and cooperatives each have unique liability, management, ease of organization, and tax consequences. Most businesses start as simple proprietorships or partnerships, which are the easiest to form but still do require filing of forms with the state and/or county that you plan to do business in.

Table 1 from the NY Ag Innovation Center's Publication *Doing Business in New York State: Structures and Strategies* has been included for your quick reference on this subject. This publication is available for full download at <http://agviability.cornell.edu/> and it is recommended that you fully read and contact the resources listed in this publication for more information.

□ **Registering Your Business Name: Doing Business As (DBA)**

- For Sole Proprietors and Partnerships – you can get forms at an office supply store.
- Recommended to protect your name (for regional/national firms it is a good idea to get a registered Trade Name).
- May be required to get business checking
- Complete and file with County Clerk. Fees may vary (\$25-30).

More Business Considerations

☐ **Understand Labor Laws and Regulations**

Farms hiring labor are subject to immigration, tax, and labor regulations and standards. Furthermore farms hiring migrant labor are subject to additional standards and farms employing different levels of labor (ex, more than 500 hours or more than 20 employees) are also subject to different standards. A basic discussion of these topics is available in Cornell Cooperative Extension Bulletin 2002-10 Farm Labor Regulations and more detailed information can be obtained by talking to your local departments of labor, taxation, and public health.

☐ **Insurance**

General Liability and Product Liability are necessary for any business. Rates can vary depending on the type of farming you are involved with. Farm Family Insurance is one option for farmers because they tend to be more familiar with farming enterprises and write policies routinely for farm operations, however, you should shop around. Worker's Compensation insurance is required if you have employees.

☐ **Zoning** – if you plan to build a new farm facility, establish a retailing outlet, add worker housing, add horse boarding/riding facilities, etc., check with your municipality to find out what laws might apply. Some common restrictions/requirements might include: road setbacks, lot size, dimensions, signage size/placement, site plan requirements, screening, etc. Farms in certified ag districts are generally exempt from many regulations including SEQR, from some building codes and from providing professionally stamped plans for farm buildings, etc.

If you are located in an agricultural district and find local zoning to be excessively restrictive to your development plans, check the NYS Ag & Markets website for information on local laws and the ag district law. In most cases, the Ag district law protects farm operations from restrictive local laws.

A process exists by which you can request an opinion from Ag & Markets regarding the local law and whether or not must comply. First find out what the local restrictions and requirements will be, then contact Cooperative Extension or Ag & Markets for clarification about protection under the Ag District Law. If you are not located in an Ag District then you must comply with local regulations.

For questions regarding zoning and the Ag District law, call 518-457-2713 or check <http://www.agmkt.state.ny.us/AP/agservices/agdistricts.html>

Financing Options

□ **Common Strategies Used to Get Started When you Have Little or No Equity**

Agriculture, processing, and retail sale of goods are all very capital intense enterprises. Even if your decision to enter agriculture is influenced by a free resource, such as 40 acres of land on your home that are not being used, other resources such as machinery will need to be added. There are three common low cost strategies to help add capital to your enterprise.

Farm Service Agency Beginning Farmer Loans – Provided you meet several requirements for eligibility you may qualify for a \$200K direct loan or \$813K loan guarantee, in addition to farm down payment assistance. These loans are for higher risk start-up enterprises and at the prime interest rate or a less than prime subsidized interest rate. For more information contact www.fsa.usda.gov/NY

Commercial Finance – Most local banks also provide agricultural loans through their commercial lending departments and many credit unions will issue mortgages on agricultural land.

Lease Arrangements – The loan financed purchase of capital requires collateral and a proven earnings history, which may not be available. Leasing arrangements can often be made with machinery, cattle, buildings, and even land dealers on short-terms that limit the risk position you take as a leaser. The shortest term leasing agreement is a simple rental agreement and often in the case of machinery these can be made with dealers and neighbors.

Custom Hiring – For a smaller farm, owning specialty machinery that only gets used four days of the year (planting, harvest, etc.) places you in a very uncompetitive stance when you look at your ownership costs over the number of acres farmed or product sold. Custom operators and neighbors with excess capacity in these operations are often a very profitable option. There are additional considerations such as timeliness of when operators get to your farm that need to be taken into consideration.

□ **Government Programs for Land Improvements**

When developing your farm enterprise get to know your land resources. Start by looking at the Soil Survey for your County to determine soil types and soil capability. Contact your county Cooperative Extension Ag Office or the county Soil and Water District (SWCD). From the SWCD you may be able to learn about improvements that have been made by previous landowners such as installation of drainage tile. You can also learn about programs available for farmland improvements that might include assistance (in the form of cost sharing or grants) for drainage, pasture improvement, fencing, livestock watering systems, barnyard runoff management, protection of riparian buffers and more. Programs are available from state and federal sources and go a long way towards making your land read to farm, protecting water quality and other environmental resources.

Income Tax Considerations

☐ **Have a Good Business Records System That You Use and Keep Updated**

Records keeping is essential for mandated tax/regulation purposes and in order for you to make good management decisions. For tax purposes, Cornell Cooperative Extension has a paper farm account book system that may fit easiest for your small operation and there are also several accounting software programs available for use that are a necessity for larger and more complex operations. Your records should also have a system to show pesticide and labor regulation compliance. For management purposes your records should also include yield, sales, input use, labor hours used, and several other factors that you may need when making decisions about the profitability of aspects of your farm.

☐ **Decide Whether You are a Schedule F or C Operation**

Farmers are able to take advantage of a method of accounting called cash while all other businesses must meet accrual accounting standards. Cash accounting is reported on Schedule F of tax returns and much easier to report for in addition to allowing the manager more tax planning ability, but it is only allowed for certain operations. To determine which is best for you, read IRS publication 225 *Farmers Tax Guide* available at <http://www.irs.gov>.

☐ **Farmer's School Tax Credit**

The farmer's school tax credit is a tax credit allowed against income tax to reimburse some or all of the school district property taxes paid by farmers. Claim the credit each year when you file your tax return (Form IT-217-Claim for Farmer's School Tax Credit).

Who is eligible?

-Only farmers that receive at least 2/3 of federal gross income from farming (from Schedule F or farm corporate tax returns)

-Farming operations include: livestock, dairy, poultry, fish, fruit, fur-bearing animals, field crops, hort specialities, maple syrup, cider, honey, wineries

-Forestry and Christmas trees are not farming unless part of the above enterprise

-Income generated from other processing does not count towards the income requirement

Qualified Ag Property

-Includes land, farm buildings, support land, farm labor housing, set-aside land

-Residential property does not qualify for the exemption

Base Acreage Rules

-Provides a 100% exemption for the first 250 acres of farmland from school property taxes by providing an income tax credit. Remaining acreage receives a 50% credit.

Credit Limitation Based on Income

-If the farmer's NY adjusted gross income is \$150,000 or more, no credit is allowed

This is a complicated program, the best course of action if you have questions about whether you qualify is to contact the NYS Taxpayer Assistance Program - 800-225-5829 or check www.tax.state.ny.us

Property Tax Exemptions for Farmers - Land

Agricultural Assessment

Agricultural assessment allows eligible farmland located in or outside agricultural districts to be taxed at agricultural value rather than market value.

Why apply for agricultural assessments?

This can make a difference in the amount you pay in property taxes. Instead of paying taxes at market value, you will be paying based on the ag value of land determined each year by the state, not by local market conditions. In most cases the state's values per acre are lower than your property's assessed value unless you happen to be in a county where assessed values are low.

How does the exemption work?

The exemption you receive is the difference between the local assessed value and the state's ag values. The state publishes ag values each year based on 10 soil groups and for woodlands.

To qualify for agricultural assessment:

-Must have 7 acres or more of land in production for sale of crops, livestock or livestock products

-Land must be farmed by the same farmer for at least 2 years

-Farming enterprises must generate \$10,000 in sales (average for 2 years)

Note: a combination of enterprises generating \$10,000 in sales will qualify land over 7 acres for ag assessment. Up to \$2,000 in wood product sales (timber, logs, posts, firewood) can qualify towards meeting the \$10,000 minimum.

-Start up farms are eligible if they generate \$10,000 in sales in the first year of operation

-Farms less than 7 acres qualify if they generate \$50,000 in sales

-If at least 7 acres of land is **rented by a farmer** (who meets the income requirements), it is eligible for ag assessment provided the landowner has a 5 year written lease with the farmer

Proof of Average Gross Sales Value:

Assessors may ask for proof that you meet the \$10,000 gross sales requirement. This can be substantiated by providing your tax return or legitimate bookkeeping records as evidence.

Types of farming enterprises that can qualify for agricultural assessment:

field crops, fruits, vegetables, horticultural specialties (nursery, greenhouse), livestock and livestock products (includes dairy, meat, poultry species, horses, and exotics like ratites, farmed deer and buffalo, fur bearing animals), maple, honey, Christmas trees, aquaculture, woody biomass (short term crops harvested for energy). Commercial horse boarding operations with 10 or more horses boarded at a time and that meet the other requirements.

Ag assessment is available for the following land uses:

-Land used in agricultural production that meets criteria – 7 acres, \$10,000 sales

-Up to 50 acres of farm woodland used for the sale of woodland products (logs, lumber, posts, firewood); must be part of the farmed parcel(s) to qualify, it cannot be a separate tax parcel

-Support land including farm ponds, drainage ditches, land used for erosion control, hedgerows, access roads, land under farm buildings and tenant houses, land used for farm waste management (manure pits, etc.)

-Land set aside through participation in federal conservation programs

-Land under farm buildings

-Land associated with oil, gas, and wind development or extraction activities

Agricultural Assessment (continued)

Application Process

- 1- go to the local Soil and Water District Conservation office (SWCD) - complete a soils group worksheet. All land qualifying for ag assessment is grouped by soil type. SWCD will do this for you – there may be a fee and you will need your tax parcel numbers.
- 2- next take the completed soils worksheet to your town/county assessor and obtain copies of the Agricultural Assessment Application (form RP-305). Complete one form for each parcel. The assessor will keep the soils worksheet on file. Make copies of the soils worksheet and application for your records.
- 3- **Agricultural assessment applications must be filed every year prior to the taxable status date (March 1).** Agricultural assessment is **not automatic** – you must apply every year by the taxable status date. If you fail to apply, you will not receive the exemption. If no changes have been made in land used for farming, then after the initial application, you will file a short form RP-305-r.
- 4- If you buy or sell land, make sure you complete a new soils worksheet and file a new Agricultural Assessment form to reflect the changes.

Rented Land – land rented to a farmer for agricultural production is eligible for ag assessment if there are at least 7 acres used in the two preceding years and the land is subject to a rental agreement (written lease) for a term of at least 5 years. A copy of the lease or form RF-305-c must be filed with the assessor. Only the land actually used by the farmer will be eligible for ag assessment. Woodland is not eligible unless it involves sugarbush rental. Landowners must complete the application process described above to qualify – complete the soils worksheet, go to the assessment office and complete form RP-305, and file every year before the taxable status date to receive the exemption.

Renting land to a qualifying farmer is a way for rural landowners, who do not farm or small farmers who do not use all their land or meet the \$10,000 sales requirement to receive an exemption on land being farmed.

Penalties associated with conversion of ag land that has received an ag exemption:

- A conversion takes place when the land is actually converted from potential ag use to a built structure. Land that is sold, is no longer actively farmed and lies idle is not a converted until something is built on the property.
- A penalty is assessed based on the amount of land that is converted and for the amount of the exemption that was received on the converted portion during the past 5 years
- The penalty is assessed to the owner making the conversion, which may not be the farmer that sold the land but the new owner who changed the land use; who pays the penalty is sometimes negotiated during the sale of property.
- This topic is complicated so it pays to speak with your assessor if you have concerns about the penalties associated with a conversion...most often the penalty is not so significant to be a deterrent to whatever change is being proposed.

Taxable Status Date: March 1 – but check with your County/Town Assessor.

Property Tax Exemptions for Farmers - Land

Forest Tax Exemptions – 480-a

Privately owned forestland is partially exempt from taxation but is liable for special levies/assessments. The exemption is limited to the lesser of either (1)-80% of the assessed value of eligible acreage or (2)-the amount by which the assessed value exceeds \$40 x the state equalization rate x number of acres.

To qualify for the exemption:

- Requires an annual commitment to continued forest crop production for the next 10 years
- Forests must be under a management plan approved by DEC
- Must include at least 50 contiguous acres of forest land (forest lands with roads, rights-of-ways, energy transmission corridors, etc. are considered contiguous)
- Must have vehicular access for forest management purposes
- Cannot have had a timber harvest for at least 3 years prior to application for certification under this program
- Prescribed cutting may be required by DEC plan

To receive the exemption:

First Year: Complete Form RP-480, must be accompanied by a 10-year commitment form from DEC and a certificate of approval from the county clerk – take these to your county/town assessor by the taxable status date.

Subsequent years: File a new copy of the 10-year commitment form with the assessor.

If you fail to file the commitment form, the property is not eligible for the exemption.

For more information on this program, contact a DEC Forester in your region.

Where to get more information –

- Start with your County Assessment Department
- Visit with your Town Assessor
- NYS Office of Real Property Services website:

<http://www.orps.ste.ny.us/assessor/valuation/agriculture/index.htm>

Property Tax Exemptions for Farmers - Buildings

□ 483- Production and Storage Facilities

Structures and buildings essential to the operation of agricultural and horticultural enterprises and used for such purpose are exempt from property taxes for a period of 10 years (constructed or reconstructed between 1996-2009).

To be eligible, at least 5 acres of land must be used in a bonafide agricultural and horticultural operation with sales to qualify for the structure and building exemption. If there is no active use of farmlands associated with the structure, then no exemption can be claimed even if other qualifications are met.

The following types of structures and buildings or portions thereof are eligible to receive this exemption:

- The structure must be used for active farming purposes
- Used in the production and storage of agricultural and horticultural commodities that are raised for sale; facilities used for raising and breeding horses qualify under this definition
- Used mainly for ag/hort use and only incidentally for processing
- Used to house essential employees associated with the enterprise; family members could qualify as essential employees if they do not have ownership in the business

*The following types of structures and buildings are **not eligible** for this exemption:*

- Processing and retailing facilities
- The residence of the farmer and his/her immediate family (spouse & dependents)
- Structures used for breeding pets, fur bearing animals, or animals for experimental use
- Used in connection with raising timber (sawmill)

Note: if you have a production and storage facility with a processing and retailing under the same roof, the exemption applies only to the production and storage portions of the facility and not the entire facility -- pro-rated per square foot.

To receive the exemption, owners of the facility must apply with the county/town assessor before the taxable status date and within one year from the date of completion of the construction or reconstruction. The exemption continues for 10 years as long as the facilities are used for ag/hort production and storage purposes. If their use changes, the structures and buildings are subject to roll-back taxes.

□ 483-a - Agricultural Structures with Limited Uses

Farm silos, farm feed grain storage bins and commodity sheds used for feed storage, bulk milk tanks and coolers, and manure storage and handling facilities are exempt from taxation and special levies/assessments. These structures must be permanently affixed to agricultural land to qualify for this exemption. Because these structures qualify for permanent exemption, they do not qualify for the 10-year exemption.

To receive the exemption, owners must apply before the taxable status date with the county/town assessor. Once the exemption is granted, it requires no renewal.

483-b - Historic Barns

Municipalities must pass a resolution permitting this exemption. Check with your local assessor to see if a local law/resolution has been filed to allow this exemption. If not, contact your county Farm Bureau or AFPB to initiate a resolution in your county/town. No exemption is granted for construction or reconstruction prior to the passing of a local law/resolution.

Historic barns are structures at least partially *constructed before 1936* that were originally designed and used for storing farm equipment or agricultural products, or for housing livestock.

Exemption from 100% of the increase in the assessed value attributable to reconstruction or rehabilitation of a historic barn is granted for one year. Then the exemption decreases each year by 10% from the increase in assessed value. If there is a change in the assessment role, there will be an adjusted exemption base. If the barn is eligible for 483 exemption (10 year); it is not eligible for this exemption. Historic barns used for residential purposes are not eligible for this exemption. If the historic appearance of the barn is altered, it is not eligible for the exemption.

To receive the exemption, application is made with the county/town assessor before the taxable status date.

483-c – Temporary Greenhouses

Temporary greenhouses are a framework covered with demountable poly film that may be heated, includes water and electrical utilities, and supporting poles. Temporary greenhouses are exempt from taxation and special levies/assessments.

To receive the exemption, application is made with the county/town assess or before the taxable status date. Once the exemption is granted no renewal is necessary.

483-d – Farm or Food Processing Labor Camps or Commissaries

Farm or food processing labor camps or commissaries in compliance with standards set by the departments of health and labor and the state building commission shall be exempt from taxation and special levies/assessments.

To receive the exemption, application is made with the county/town assess or before the taxable status date. Once the exemption is granted no renewal is necessary.

Farm Building Exemptions and how they work –

The cost of a building does not determine the amount of the exemption, the exemption is from the increase in assessed value of the property that results from adding the structure.

Taxable Status Date – March 1 – but check with your County/Town Assessor.

Where to get more information –

- Start with your County Assessment Department
- Visit with your Town Assessor
- NYS Office of Real Property Services website:

<http://www.orps.stte.ny.us/assessor/valuation/agriculture/index.htm>

Sales Tax Exemptions/Refunds for Farmers

Some of the more common forms are listed below

- ST-125 Farmer's - Commercial Horse Boarding Operator's Exemption Certificate**

Exempts you from paying sales tax on the purchase of tangible personal property used predominantly (more than 50%) in farm production or horse boarding; includes: building materials, production equipment and supplies, animals, feed, hardware, motor vehicles, fuel (not motor fuel), gas/propane, electricity, refrigeration. Also applies to labor and services hired for repairing, maintaining or servicing personal property used in farming.

There are many subtle exemptions so it pays to check with the state if you are uncertain about whether an item or service you are purchasing is exempt (and if the seller is unsure). Phone assistance is available by calling 800-972-1233 - website: www.tax.state.ny.us

Copies of the form are available form is available on the website or call your county extension office. Make sure you have copies of the form (ST-125) available with you when making purchases. If you make numerous purchases with a particular supplier, check the box "blanket certificate" and they will keep the form on file for future purchases.
- PR-955 Claim for Refund by Farmers and Commercial Horse Boarding Operators - Sales Tax on Utilities, Fuel Oil and Motor Fuel** (not for motor fuel tax)

This form may be used to claim a refund if you have paid sales tax on any of the above items. You do not have to fill out this form if you have an exemption certificate on file with the vendor. Note you must have receipts to justify this claim. File annually or semi-annually.
- FT-1004 Certificate for Purchases of Diesel Motor Fuel or Residual Petroleum Product for Farmers and Commercial Horse Boarding Operations**

Exempts you from paying sales tax on diesel motor fuel used for farming purposes. Dealers can keep this for on file (check blanket certificate) so you do not have to fill out a new form for each purchase.
- FT-500 Application for Refund of Sales Tax Paid on Automotive Fuels**

Need to submit invoices with the refund application.
- DTF-803 Claim for Sales and Use Tax Exemption -Title/Registration Motor Vehicle, Trailer, ATV, Boat, Snowmobile**

This form is not used to make purchases. Restricted to transactions processed by DMV. Motor vehicles must be predominantly used in farming.
- ST-126 Exemption Certificate for Purchase of Racehorses**

Need a certificate for each horse.
- Need Help? Telephone Assistance is available M-F 8:30 am-4:25 pm**

Business Tax Information: 800-972-1233
Forms and Publications: 800-462-8100
Alternate phone number: 518-485-6800
Website: www.tax.state.ny.us

Collecting Sales Tax on Farm Sales

Exempt Farm Sales - When selling direct to the consumer, you do not need to collect sales tax on farm and food products for human consumption this includes all fresh and processed foods - fruits, vegetables, baked goods, jellies, jams, preserves, meats, eggs, syrup, honey, cider, etc. (unless listed below). No Exemption Certificate is required.

Taxable Farm and Food Sales - When selling direct to consumer, you must collect sales tax on:

- Prepared foods intended for immediate consumption
- Candy
- Soft drinks and fruit juices with less than 70% real juice
- Flower, shrubs, nursery products
- Forest Products, Christmas trees, lumber
- Hay, grain, straw
- Non-food sales
- Horses sold for pleasure riding
- Ornamental crops like gourds, Indian corn, dried flowers, greens, etc.
- Crafts
- Topsoil, turf, gravel

Note: if these items are sold for resale by someone else, you do not have to collect the sales tax, but you will need to file a resale certificate

Becoming a Sales Tax Vendor - Form DTF-1 - Certificate of Authority

This means you are involved in the direct sale of your products to consumers/end users and therefore, you must collect sales tax.

There are several types of sales tax vendors:

Regular Vendors - with a permanent location

Temporary Vendor - sales no more than 2 consecutive quarters in any 12-month period

Show Vendor - sells products at a flea market, craft fair, shows, farmers' markets, on either a regular or temporary basis and does not have a permanent location

You cannot legally make taxable sales until you have received your valid Certificate of Authority. You must apply for your certificate of authority at least 20 days before you begin operating your business. Your Certificate of Authority must be displayed prominently at your place of business or at fairs/markets. It is very important to keep detailed records of your taxable sales - each transaction must include amount paid, and sales tax, retain a copy of the receipt. Records should be kept for 3 years.

Filing Requirements: You must file a return even if you had no sales. Initially you will be classified as a quarterly filer. Monthly and annual filing options are available if you qualify.

NYS Dept. of Taxation and Finance Publication 750 - A Guide to Sales Tax in New York State is very helpful and can be obtained by calling 800-462-8100 or on the website www.tax.state.ny.us

Walk-in Assistance is also available at district offices of NYS Dept. of Taxation & Finance between 9 AM - 5 PM M-F. Binghamton - 44 Hawley St. or Syracuse - 333 East Washington St.

Environmental Laws and Regulations

Certification of Pesticide Applicators

*An important reminder when using pesticides - the **Label is Law** - make sure you read it.*

A farmer using **restricted pesticides** in the production of an agricultural commodity on property owned or rented by himself is considered a "private" applicator and must become certified by DEC. To be eligible for certification you must have one season's experience working with the commodity on which you will use pesticides and be at least 17 years of age. Certification involves taking an exam based on information found in the Pesticide Training Manual (Core Manual). Additionally there are questions pertaining to the commodity on which you use pesticides (category manual). You can obtain these books from Cooperative Extension. CCE also offers training programs but you may study on your own and make an appointment with the DEC to take the exam. For information on manuals and training, contact CCE. Questions about the certification process and exams, call DEC in your region. If you pass the exam you will receive a card that is valid for 5 years. There is a fee of \$50 for the exam and \$25 for certification. During the 5 years you must obtain continuing education credits toward recertification which you can get at many farm meetings. You are obligated to keep records of the meetings you attend where credit is offered and turn in record sheets upon notice by DEC that your license is about to expire. If you do not have the required credits, you may have to take the exam again.

For more information on pesticide certification, check the DEC website:

www.dec.state.ny.us

- CAFO Regulations**– Farms with more than 300 animal units should have a permit for a Concentrated Animal Feeding Operation (CAFO) issued by the state Department of Environmental Conservation. More information is available at <http://www.dec.state.ny.us/website/dow/cafohome.html>

Marketing Regulations

Selling Plants

If you sell plants for outdoor use -- includes bedding plants, perennials, shrubs and trees grown in a nursery or greenhouse, you will need to obtain a plant sellers license from NYS Ag & Markets. If you sell cut flowers or houseplants the license is not required. As a plant seller you greenhouse/nursery crops are subject to inspection to protect the consumer from potentially diseased or insect infested plant materials.

To get your license, contact the NYS Ag & Markets Division of Plant Industry

Central office - 518-457-2087; Regional Inspectors will visit your production facility to inspect plants before you begin sales and thereafter annually. There is a fee for the license.

Selling Produce

No special licenses are required. Must be sold free of debris, in clean containers; if washed, have your water tested. Bulk displays are not subject to grading, labeling or packaging.

Some produce is subject to USDA standards for grade and quality if packaged: potatoes, apples, lettuce, and grapes. Grade, quantity of contents, name and address of producer required on closed packages.

NYS AG & Markets enforces quality, grades and standards.

Selling Meats

Poultry exemption: exempt from NYS-USDA inspection if the farm raises and slaughter under 1000 chickens, 250 turkeys; more than 1000 bird equivalents raised for slaughter per year must be processed in a USDA facility and stamped.

Other Meats (beef, lamb, goat, pork): must be processed in a USDA facility if intended for commercial/retail sale; These meat can be processed in NYS custom exempt facilities and sold direct from farm (carcass is purchased by the person for whom it is processed). Further processing of meat - making sausage, etc. must be done in USDA facilities or certified processing facilities/kitchens (Article 20-C).

Exotic Animals: bison, deer, rabbits, ratites must be slaughtered in a NYS Custom Exempt Plant.

Inspection is not necessary for retail sales (to end user).

Questions about meat slaughter and sales, contact Ag & Markets - 518-457-5459

Selling Dairy Products

Contact Dairy Products Licensing – Ag & Markets 518-457-5731

Selling Eggs

Cartons must be marked with grade and size.. Can be sold ungraded-in bulk displays but grade and size must be indicated. Should be washed and candled. Cartons need name, address of producer and date packed.

Selling Honey-Maple Syrup - exempt from licensing if you do not add ingredients or repack.

Production facilities must be clean and sanitary. If you make specialty honey or maple products-you must have an Article 20-C license. Maple syrup is subject to grade identification.

Making/Selling Wine

Farm winery license - Alcohol Beverage Control, Albany

Marketing of Processed Foods

Home Processing Exemption –food processed in ordinary home kitchen facilities

The following foods may be exempted from Article 20-C licensing provided that:

- containers are clean, sanitary and contents labeled
- jams, jellies, marmalades, etc. must be in glass containers with metal covers
- home foods are not misbranded or adulterate

Products considered non-hazardous under this exemption include:

- Bakery products for wholesale sales – bread, rolls, cookies, brownies, fudge, double crust fruit pies, and cakes which require no refrigeration
- jams, jellies, marmalades or similar products
- Candy (not chocolate)
- Spices or herbs
- Snacks: popcorn, carmel corn, peanut brittle

A review of processing procedures may be required for certain products before granting exemptions. Home Exemption Certificates must be granted and on file with NYS Dept. of Ag & Markets. Water test is required.

Foods that may not be sold at Farm Markets include:

- Home canned fruits, vegetables, pickled products, sauces, relishes or other low acid foods unless manufactured in an inspected facility according to an approved process.
- Cream, custard, pumpkin, meat or single crust pies or cheese filled baked goods unless prepared in an approved inspected baking facility, packaged or covered and refrigerated.
- Other foods prepared for immediate consumption unless made and sold with the proper processing and vending license.

Regulated Activities – Article 20-C License

Applies to anything that is subject to the following: baking, canning, preserving, freezing, dehydrating, juicing, cider, pickling, brining, bottling, packaging, repackaging, pressing, waxing, heating or cooking, manufacturing. Requirements vary depending on product. A scheduled process must be developed which outlines recipe testing/formulation, critical control points (to avoid contamination), processing steps, storage requirements, distribution and selling conditions/restrictions.

Cider - requires an Article 20-C license. Apples must be firm, washed. Pasteurization is recommended but not required. Unpasteurized cider must be labeled. HACCP plans are required for cider and juice processing facilities.

For more information, contact NYS AG & Markets:

Rochester Regional Office 585-424-1720, Syracuse 315-487-0510.

For assistance in developing your processed food recipe and developing a processed food product, contact **NY Food Venture Center** at Geneva, 315-787-2259

Request a copy of the publication: *Small Scale Food Entrepreneurship: A Technical Guide for Food Ventures.*

Other Marketing Regulations

NYS Food Labeling Law – Requires that food sold in bags, closed containers, jars, or covered with plastic be identified by name and include the producer/packer/distributor name, address, ingredients in descending order, and net quantity of contents.

Packaging and Labeling Requirements for sale at Farm Markets

All packaged foods must be labeled in accordance with NYS food labeling requirements.

Baked goods sold at farm markets must be individually pre-packaged or protected by a transparent tray.

Food Service Establishments

- Food service establishments inspected by **Ag & Markets**: Convenience stores, delis, wholesale bakeries, farm markets, farmers' markets.
- Food service establishments requiring a **Health Dept. Permit**: restaurants, diners, pizza shops, coffee shops, ice cream stands, retail bakeries, farmers' markets vendors with food that that needs to be kept hot/cold; catered kitchens, commissaries, intuitional kitchens.

Food Safety - HACCP - FDA regulation that requires a controlled process be followed when processing foods to minimize points of contamination. HACCP plans are required for seafood, dairy, juice and cider processing facilities. Other sectors of the food industry are coming into voluntary compliance.

For more information check the website - www.cfsan.fda.gov under Program Areas - HACCP.

Bureau of Weights and Measures - must certify scales if selling products by weight. This protects the consumer ensuring that they are getting the actual amount that is indicated on your package. Check under your County listing in the phone book for the number. Annual scale certification is required, fees vary by county.

Standard Measure – Products can be sold in standard containers – half-pint, pint, quart, peck, half-bushel, bushel if you don't sell by weight.

Food Stamps – can be accepted at farm markets; USDA 585-283-6744, Rochester

FMNP Coupons – Can be accepted for fresh produce only sold at a farmers' market (with 2 or more vendors). Growers must file a crop plan and grow at least 50% of what you sell in order to qualify to take coupons from customers. Coupons are in \$2 denominations, no change given. Coupons can only be accepted at markets that are certified to accept coupons. Check with Market Managers.

Organic Certification

Standards to sell food as certified organic are complex and ever changing. If you want to sell organic foods in the marketplace and call them organic, you must become certified if you have sales of \$5000 or more. Great fact sheets and resources relevant to the current standards can be found at the National Organic Program website, <http://www.ams.usda.gov/nop/indexIE.htm>

For information and questions about becoming certified, contact NOFA-NY 607-724-9851 or email certifedorganic@nofany.org or check the website: www.nofany.org

Funding is available from NYS to help offset the costs of certification - contact NYS Ag & Markets - 518-457-2195.

Grants

An increasing number of grant opportunities are available for farmers to apply for--most are from federal or state programs with specific objectives. Grants fall into the three general types: 1-grants for business planning, adding value and increasing farm viability; 2-grants for on-farm research and demonstration projects mostly production oriented though some include marketing demo projects; and 3-grants for farm energy conservation, alternative energy, environmental protection/conservation and waste handling.

Grants are never (rarely) available to start your farm and should not be counted upon to grow your business. Grants in consort with loans and other government programs may be a viable business strategy as long as there is a contingency plan in case the grant does not come through.

Grants are very competitive (many applications) so you should only apply if you feel you have a project that clearly meets the grantors objectives. It also takes significant time and effort to write a winning grant proposal so do not think you can complete them in a day or two.

Always find out what kinds of projects have been funded in the past to make sure your project is in line with what is being funded. And once you submit a grant, do not expect to hear back about whether your project was funded for at least 6 months. If funded, it may also take time to finalize the contract and you cannot spend money and get reimbursement before you have a signed contract.

Finally, grants require reporting of results to the funder...you must keep records and write up your results as well as provide financial records. Grants are considered income for tax purposes.

For a list of Grant Opportunities for Farmers - see the Green Ag/Forestry Directory or contact Monika Roth 607-272-2292, mr55@cornell.edu

Other Resources

Directory of NYS Agricultural Organizations - this is a useful publication for connecting with commodity groups. For a copy call Ag & Market at 800-554-4501 or email info@agmkt.state.ny.us or check the web www.agmkt.state.ny.us

Agriculture & Forestry Directory - provided

CCE South Central NY Agriculture Program - see our team brochure

Other programs for Beginning Farmers -

**Dec. 7, 2004 - Health Insurance for Farm Families
Farmers' Tax Meeting??**

April 2, 2005 Introduction to Farming Opportunities