

Looking at Leases: Part 1

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Well-structured lease agreements can provide a number of benefits to a farm operation, yet many of the leased acres used in agriculture are still secured with a handshake deal. Written leases provide security for the operator and the landlord, as well as important liability protection, but may also allow the operator to receive tax benefits that neither party was eligible for in the past.

Manufacturer's Real Property Tax Credit

The Manufacturer's Real Property Tax Credit is a refundable credit claimed on your New York State income tax return, which means that even if you owe no taxes, or the credit exceeds the amount of taxes you owe, it will be returned to you as a refund.

- The credit is equal to 20% of the eligible taxes paid on land that you own or lease that is used for manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing. For most operating farms, the school taxes paid on this property have already been used for the NYS Farmer's School Tax Credit, so we're usually only talking about the town and county taxes. Certain areas do have to be carved out, so it's important to work carefully with a qualified tax preparer who specializes in agriculture.
- According to Tim Moag, Freed Maxick CPAs, to qualify for this credit on leased land, a written lease must be in place with the correct language, even if you are leasing the land from an owner or related entity. The taxes must be paid directly by the operating entity. When dealing with intercompany leases, town and county taxes should ideally be paid by the tenant, and the school taxes by the landlord.
- When working with outside landlords, there are more complexities to the credits, and each situation needs to be evaluated individually. Dario Arezzo, a Senior Tax Consultant with Farm Credit East, gives this advice: "When looking to optimize real property tax credits, farm operators should pay careful attention to how their leases are structured. For example, farm operators renting from landlords who are not engaged in farming should structure the lease agreement to require the farmer to pay all real estate taxes, including school taxes."

The key to maximize these tax credits is to work together with a good tax preparer who is well versed in agricultural issues, along with an attorney, to draft a lease with the correct wording. The upfront costs will repay themselves in year after year of tax savings.

