

**Welcome to OSU Income Tax Schools / Purdue Income Tax
Schools**

Farmer & Farmland Owner Webinar 2023

We're glad you're with us!

Farm Office Live December 23 - Special Tax Edition



THE OHIO STATE UNIVERSITY

COLLEGE OF FOOD, AGRICULTURAL,
AND ENVIRONMENTAL SCIENCES



College of Agriculture

Agenda:

CFAES

- ✓ Welcome
- ✓ Employee vs. Independent Contractor
- ✓ Keeping an Eye Forward on Estate/Gift Tax Limitation
- ✓ Corporate Transparency Act/ Beneficial Ownership Information Reporting
- ✓ Basis Allocation Land Acquisition – Allocating Basis to Residual Fertility for Future Deductions
- ✓ Defining Farm Income to Avoid Paying Estimated Tax

December 15, 2023
10:00 – Noon

Register or watch replays at
go.osu.edu/farmofficelive

- ✓ Depreciation Update
- ✓ Keeping an Eye on Tax Cuts and Jobs Act Provisions Sunsetting After 2025 Tax Year
- ✓ 1099-K Changes
- ✓ Charitable Remainder Trusts

Ohio Update

- ✓ Current Ag Use Valuation Update
- ✓ Beginning Farmer Tax Credit
- ✓ Commercial Activity Tax (CAT) Update
- ✓ Ohio Tax Law Interpretation – Ohio Supreme Court Issues New Ruling

Featuring:

David Marrison

Jeff Lewis

Michael Langemeier

Barry Ward

Today's Instructors



Barry Ward
Director, OSU Income Tax Schools
Leader, Production Business Management



David Marrison, MS
Professor, & Field Specialist
Farm Management



Dr. Michael Langemeier
Associate Director, Center for Commercial
Agriculture
Professor, Dept. of Agricultural Economics
Purdue University



Jeff Lewis, JD
Program Coordinator
OSU Income Tax Schools



Feel free to submit questions at any time using the Q/A feature at the bottom of your screen.

Slides and a recording for today's presentation can be found at:

go.osu.edu/farmofficelive

Agricultural and Natural Resources Tax Issues



David L. Marrison

Field Specialist – Farm Management

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The Farm Economy

So How Would You Rate the Farm Economy in 2023?

<https://www.ers.usda.gov/topics/farm-economy/farm-sector-income-finances/farm-sector-income-forecast/>

Farm Income

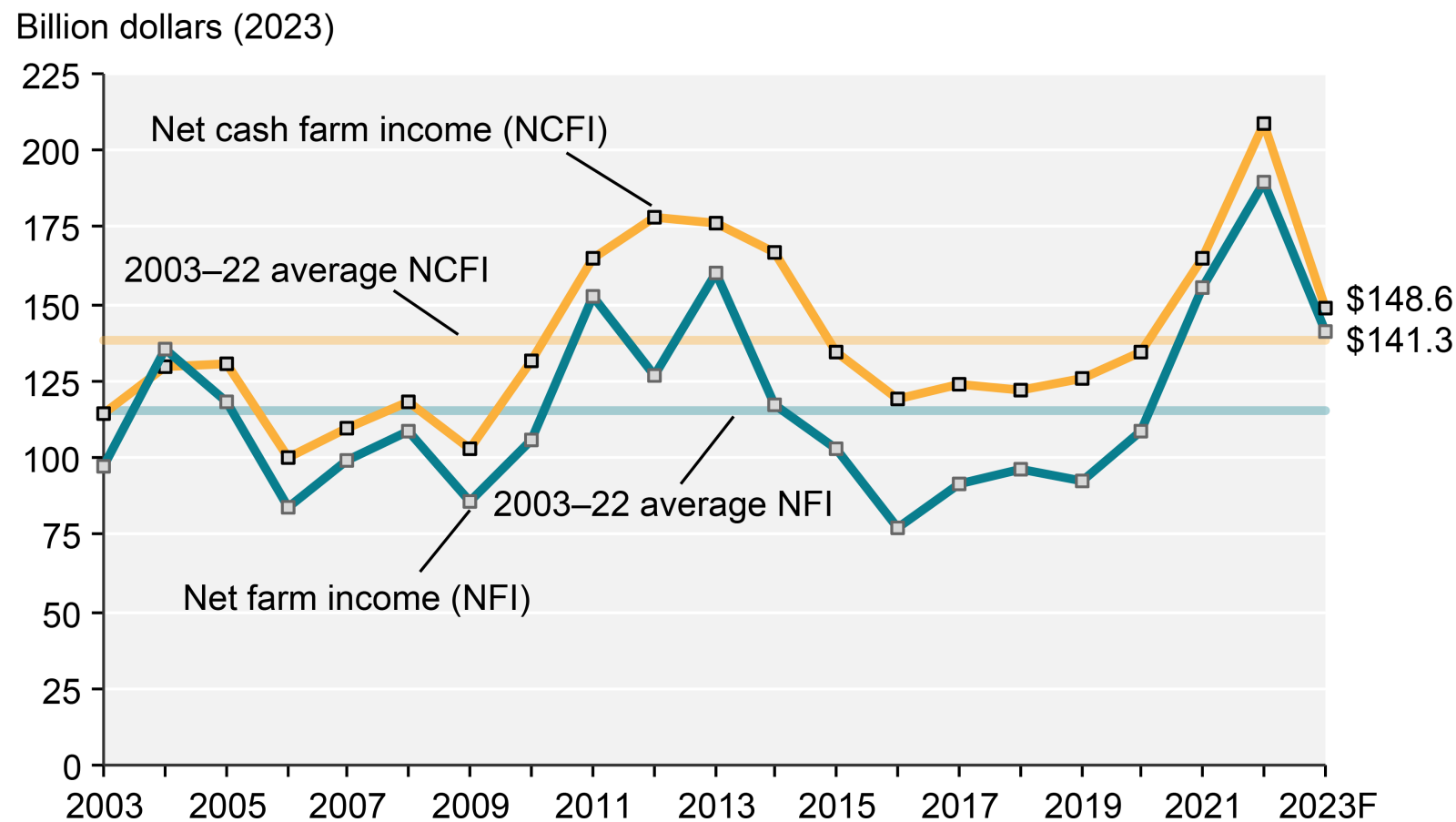
- ✓ Crops:
- ✓ High net farm incomes in 2021 and 2022
- ✓ Lower in 2023
- ✓ Still lower in 2024?
 - ✓ Large global corn stocks



- ✓ Livestock, Poultry, Dairy:
- ✓ Feed costs trended lower in '23 will likely trend lower in '24
- ✓ Cow/calf incomes high (smallest U.S. beef herd since 1962)
- ✓ Finishing cattle prices high – net income mixed
- ✓ Swine profits low to negative in '23 possibly improving in '24
- ✓ Dairy income low to negative in '23 Milk price flat into 2024 (Milk per cow)
- ✓ Poultry/egg prices flat (avian influenza)

U.S. net farm income and net cash farm income, inflation adjusted, 2003–23F

CFAES

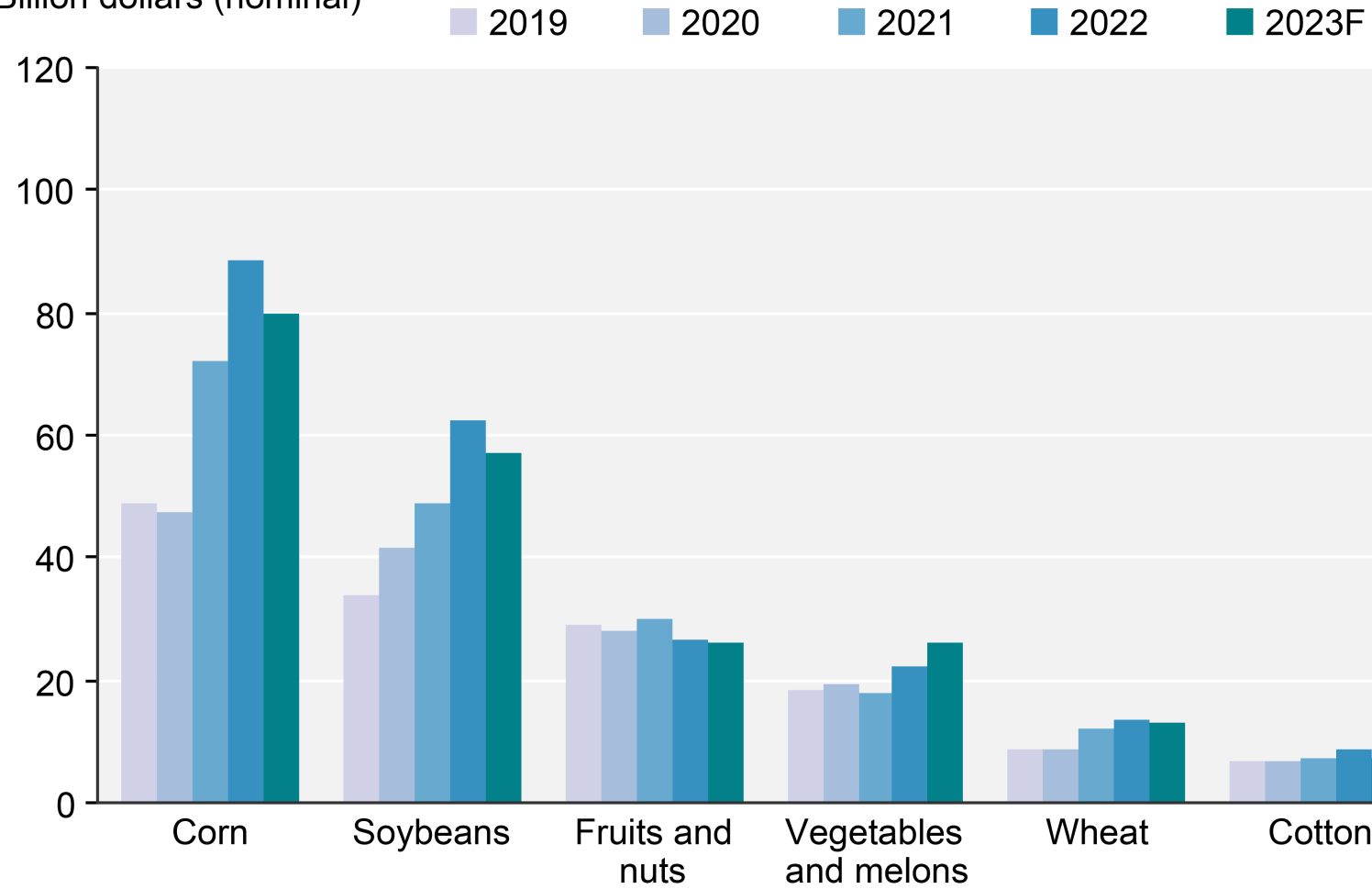


Note: F = forecast. Values are adjusted for inflation using the U.S. Bureau of Economic Analysis Gross Domestic Product Price Index (BEA API series code: A191RG) rebased to 2023 by USDA, Economic Research Service.

Source: USDA, Economic Research Service, Farm Income and Wealth Statistics.
Data as of August 31, 2023.

U.S. cash receipts for selected crops, 2019–23F

Billion dollars (nominal)

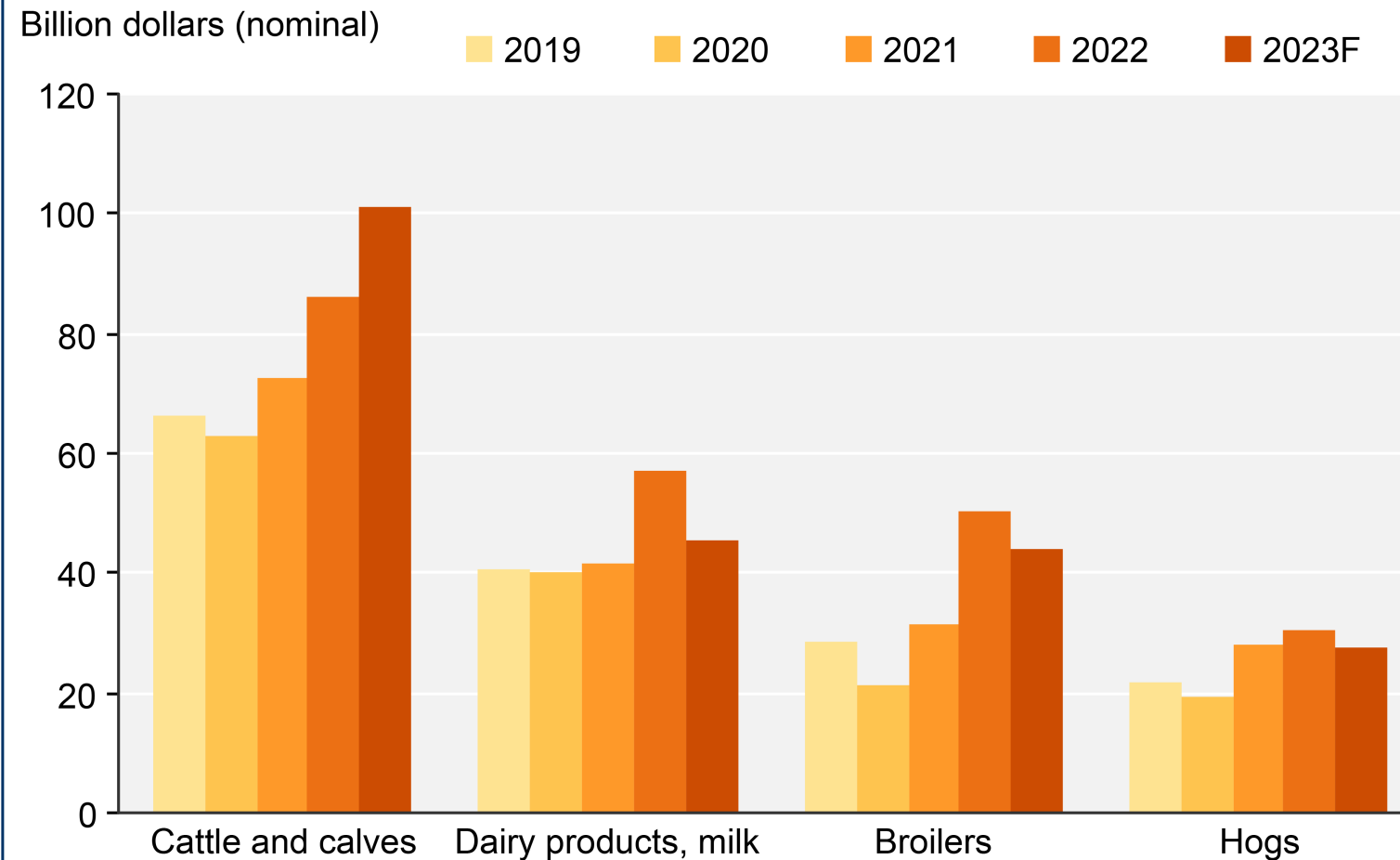


Note: F = forecast.

Source: USDA, Economic Research Service, Farm Income and Wealth Statistics.

Data as of August 31, 2023.

U.S. cash receipts for selected animals/products, 2019–23F

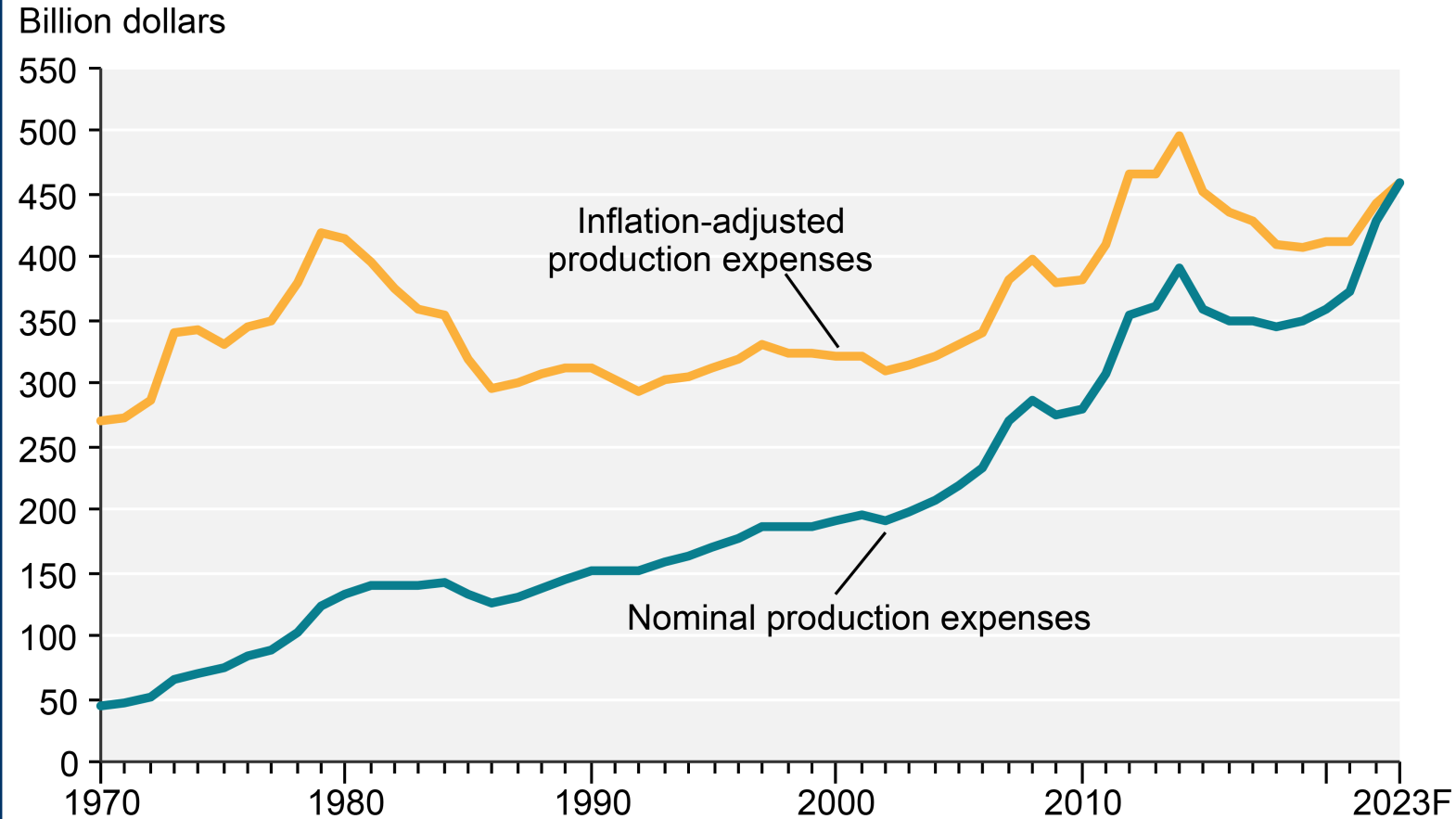


Note: F = forecast.

Source: USDA, Economic Research Service, Farm Income and Wealth Statistics.

Data as of August 31, 2023.

Nominal and inflation-adjusted U.S. farm production expenses, 1970–2023F

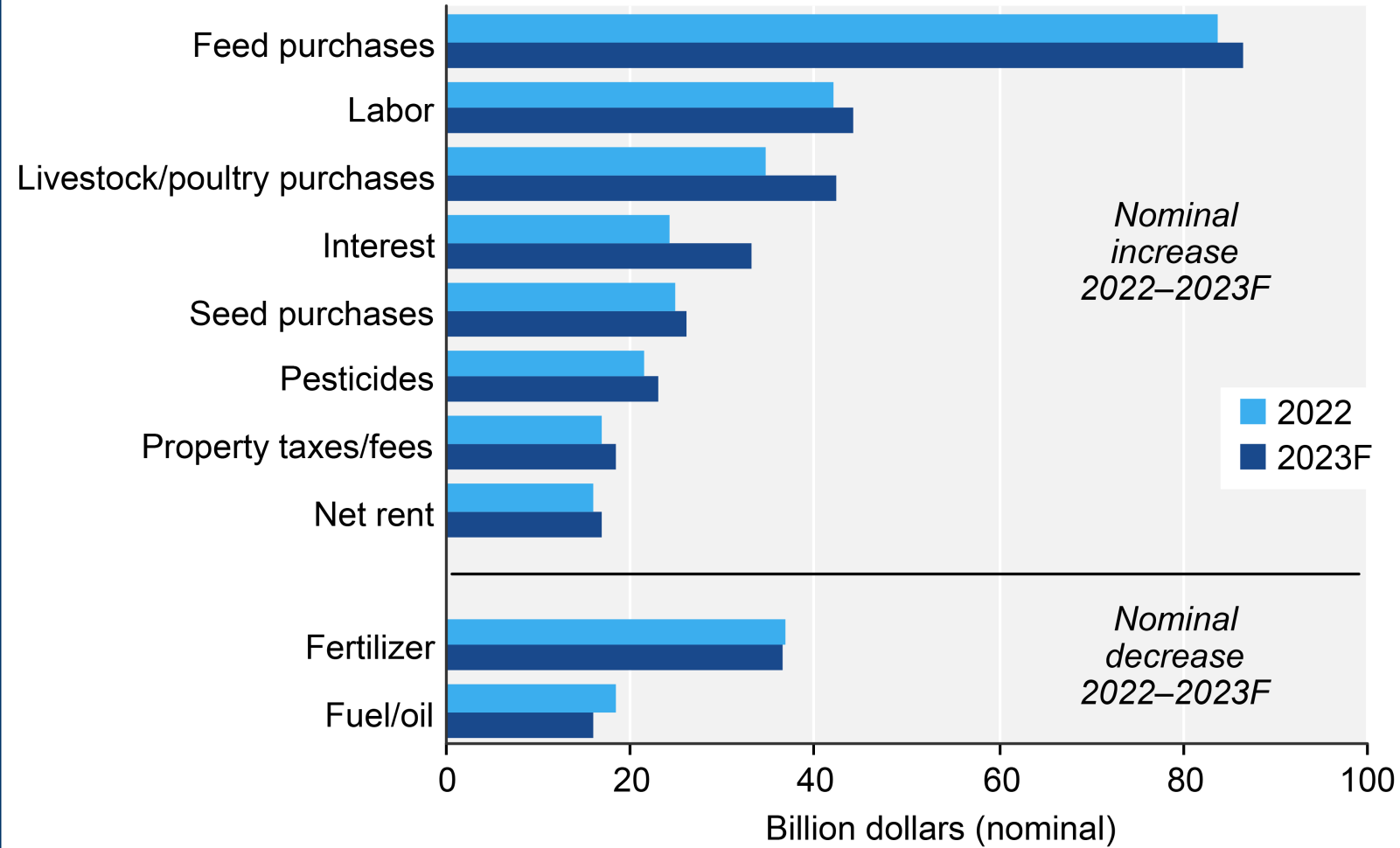


Note: F = forecast. Real values are adjusted for inflation using the U.S. Bureau of Economic Analysis Gross Domestic Product Price Index (BEA API series code: A191RG) rebased to 2023 by USDA, Economic Research Service.

Source: USDA, Economic Research Service, Farm Income and Wealth Statistics.
Data as of August 31, 2023.

Selected U.S. farm production expenses, 2022–2023F

CFAES



Note: F = forecast.

Source: USDA, Economic Research Service, Farm Income and Wealth Statistics.

Data as of August 31, 2023.

Employee vs Independent Contractor

Employee or Contractor?

I hire a few retired farmers to help with grain harvest to run grain buggies and to haul grain back to our on-farm storage. Can I classify them as independent contractors?



Employee or Independent Contractor

- As farm business it is important to know the difference.
 - Fair Labor Standards (FLSA)
 - Taxes (IRS Standard)
 - Worker Unemployment Compensation
 - Federal and State Reporting Requirements
- Article: <https://farmoffice.osu.edu/blog/fri-08132021-1013am/employee-v-independent-contractor-when-ag-employer-responsible>
- <https://www.dol.gov/agencies/whd/flsa/misclassification>

IRS Factors

- Behavioral Control
- Financial Control
- Relationship of Parties

Independent Contractor *or* Employee

Which are you?

For federal tax purposes, this is an important distinction. Worker classification affects how you pay your federal income tax, social security and Medicare taxes, and how you file your tax return. Classification affects your eligibility for social security and Medicare benefits, employer provided benefits and your tax responsibilities. If you aren't sure of your work status, you should find out now. This brochure can help you.

The courts have considered many facts in deciding whether a worker is an independent contractor or an employee. These relevant facts fall into three main categories: behavioral control; financial control; and relationship of the parties. In each case, it is very important to consider all the facts – no single fact provides the answer. Carefully review the following definitions.

Behavioral Control

These facts show whether there is a right to direct or control how the worker does the work. A worker is an employee when the business has the right to direct and control the worker. The business does not have to actually direct or control the way the work is done – as long as the employer has the right to direct and control the work. For example:

Instructions – if you receive extensive instructions on how work is to be done, this suggests that you are an employee. Instructions can cover a wide range of topics, for example:

- how, when, or where to do the work
- what tools or equipment to use
- what assistants to hire to help with the work
- where to purchase supplies and services

If you receive less extensive instructions about what should be done, but not how it should be done, you may be an independent contractor. For instance, instructions about time and place may be less important than directions on how the work is performed.

Training – if the business provides you with training about required procedures and methods, this indicates that the business wants the work done in a certain way, and this suggests that you may be an employee.

Financial Control

These facts show whether there is a right to direct or control the business part of the work. For example:

Significant Investment – if you have a significant investment in your work, you may be an independent contractor. While there is no precise dollar test, the investment must have substance. However, a significant investment is not necessary to be an independent contractor.

Expenses – if you are not reimbursed for some or all business expenses, then you may be an independent contractor, especially if your unreimbursed business expenses are high.

Opportunity for Profit or Loss – if you can realize a profit or incur a loss, this suggests that you are in business for yourself and that you may be an independent contractor.

Relationship of the Parties

These are facts that illustrate how the business and the worker perceive their relationship. For example:

Employee Benefits – if you receive benefits, such as insurance, pension, or paid leave, this is an indication that you may be an employee. If you do not receive benefits, however, you could be either an employee or an independent contractor.

Written Contracts – a written contract may show what both you and the business intend. This may be very significant if it is difficult, if not impossible, to determine status based on other facts.

When You Are an Employee...

- Your employer must withhold income tax and your portion of social security and Medicare taxes. Also, your employer is responsible for paying social security, Medicare, and unemployment (FUTA) taxes on your wages. Your employer must give you a Form W-2, Wage and Tax Statement, showing the amount of taxes withheld from your pay.

When You Are an Independent Contractor...

- The business may be required to give you Form 1099-MISC, Miscellaneous Income, to report what it has paid to you.
- You are responsible for paying your own income tax and self-employment tax (Self-Employment Contributions Act – SECA). The business does not withhold taxes from your pay. You may need to make estimated tax payments during the year to cover your tax liabilities.
- You may deduct business expenses on Schedule C of your income tax return.



IRS Publication 1779- <https://www.irs.gov/pub/irs-pdf/p1779.pdf>

Employee Tax Withholding

- Typically, an employer must withhold and deposit income taxes, social security taxes, and Medicare taxes from the wages paid to an employee.
- Additionally, the employer must pay the matching employer portion of social security and Medicare taxes and pay unemployment tax on wages paid to an employee.
- Generally, an employer does not have to withhold or pay any taxes on payments to independent contractors.
- Form SS-8 for determination.

Form SS-8
(Rev. May 2014)

Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding

OMB No. 1545-0004
For IRS Use Only:
Case Number:
Earliest Receipt Date:

Department of the Treasury
Internal Revenue Service
Information about Form SS-8 and its separate instructions is at www.irs.gov/formss8.

Name of firm (or person) for whom the worker performed services: _____ Worker's name: _____

Firm's mailing address (include street address, apt. or suite no., city, state, and ZIP code): _____ Worker's mailing address (include street address, apt. or suite no., city, state, and ZIP code): _____

Trade name: _____ Firm's email address: _____ Worker's daytime telephone number: _____ Worker's email address: _____

Firm's fax number: _____ Firm's website: _____ Worker's alternate telephone number: _____ Worker's fax number: _____

Firm's telephone number (include area code): _____ Firm's employer identification number: _____ Worker's social security number: _____ Worker's employer identification number (if any): _____

Note. If the worker is paid for these services by a firm other than the one listed on this form, enter the name, address, and employer identification number of the payer: _____

Disclosure of Information

The information provided on Form SS-8 may be disclosed to the firm, worker, or payer named above to assist the IRS in the determination process. For example, if you are a worker, we may disclose the information you provide on Form SS-8 to the firm or payer named above. The information can only be disclosed to assist with the determination process. If you provide incomplete information, we may not be able to process your request. See Privacy Act and Paperwork Reduction Act Notice in the separate instructions for more information. If you do not want this information disclosed to other parties, do not file Form SS-8.

Parts I-V. All filers of Form SS-8 must complete all questions in Parts I-V. Part V must be completed if the worker provides a service directly to customers or is a salesperson. If you cannot answer a question, enter "Unknown" or "Does not apply." If you need more space for a question, attach another sheet with the part and question number clearly identified. Write your firm's name (or worker's name) and employer identification number (or social security number) at the top of each additional sheet attached to this form.

Part I General Information

1 This form is being completed by: ☐ Firm ☐ Worker, for services performed _____ to _____ (beginning date) (ending date)

2 Explain your reason(s) for filing this form (for example, you received a bill from the IRS, you believe you erroneously received a Form 1099 or Form W-2, you are unable to get workers' compensation benefits, or you were audited or are being audited by the IRS): _____

3 Total number of workers who performed or are performing the same or similar services: _____

4 How did the worker obtain the job? ☐ Application ☐ Bid ☐ Employment Agency ☐ Other (specify) _____

5 Attach copies of all supporting documentation (for example, contracts, invoices, memos, Forms W-2 or Forms 1099-MISC issued or received, IRS closing agreements or IRS rulings). In addition, please inform us of any current or past litigation concerning the worker's status. If no income reporting forms (Form 1099-MISC or W-2) were furnished to the worker, enter the amount of income earned for the year(s) at issue: \$ _____
If both Form W-2 and Form 1099-MISC were issued or received, explain why: _____

6 Describe the firm's business: _____

For Privacy Act and Paperwork Reduction Act Notice, see the separate instructions. Cat. No. 16106T Form **SS-8** (Rev. 5-2014)

Worker Classification

- Fair Labor Standards Act (FLSA) enacted by Congress in 1938 to improve working conditions for employees.
- The FLSA generally requires covered employers to pay nonexempt employees at least the federal minimum wage for all hours worked and at least one and one-half times the employee's regular rate of pay for every hour worked over 40 in a workweek.
- The FLSA also requires covered employers to maintain certain records regarding employees and prohibits retaliation against employees who are discharged or discriminated against after, for example, inquiring about their pay or filing a complaint with the DOL

2022 DOL Proposed Rule

- Opportunity for profit or loss dependent upon management skill
- Investments by the worker and the employer
- Degree of permanence of the work relationship
- Nature and degree of control
- Extent to which the work performed is an integral part of the employer's business
- Skill and initiative



Employee or Contractor?

John Davis is a carpenter in a rural town in Virginia. Last year, John started advertising his services at the local farmers cooperative. Alice MacDonald, who has a peanut farm, saw John's ad and hired him to build a barn and a farm stand. They negotiated a price, and John completed the work. Now, Alice wants John to make repairs to her home and build a fence. John has other jobs, and he must decide whether to buy the necessary equipment to build a fence and hire another employee to do the work.

Employee or Contractor?

Jenifer Cho is a certified crop adviser. She advises Southwest Farms, a commercial farming operation, about agronomic practices. The farm provides software, a computer, office space, and all Jenifer's equipment and tools. Jenifer occasionally uses her own supplies on the farm.



Employee or Contractor?

For 8 months each year, Lucas Bianchi is a field worker for Green Fields Production, a specialty crop farm in the southeast United States. He has worked for the farm for 5 years. Typically, the work starts in March with planting, and ends in October with harvesting. Lucas provides labor only for Green Fields, and he does not actively market his services to any other businesses. The farm provides his tools and equipment and supervises his work. In the winter months, Lucas provides handyman services around town.





Employee or Contractor?

- A drilling company requires everyone work on-site to undergo drug testing and safety training. Due to these requirements, are they employees?
- A farm requires employees to hold a commercial driver's license (CDL) and a commercial pesticide application license. Since these certifications are held by the individual are they classified as independent contractors?



Employee or Contractor?

Sun Gold Farms grows tomatoes that it sells to distributors. The farm pays workers to pick the tomatoes during the harvest season. Because picking tomatoes is an integral part of farming tomatoes, and the company is in the business of farming tomatoes, the tomato pickers are integral to the company's business.

Employee or Contractor?

Sun Gold Farms pays an accountant to provide nonpayroll accounting support, including filing its annual tax return. This accounting support, while important, is not critical, necessary, or central to the principal business of the farm. Therefore, the integral part of the business factor indicates that the accountant is an independent contractor.





Employee or Contractor?

Gerald Jackson is a highly skilled welder. He routinely provides services for Blue Cow Dairy Farm, repairing equipment and machinery. Gerald provides welding services for several other businesses. He is technically skilled, but also uses and markets his skills in a manner that evidences business-like initiative.

Keeping an Eye Forward on Estate/Gift Tax Limitation

Dear Extension.....

Will I lose my
farm to estate
taxes?



Federal Estate Taxes

- Annual gift exclusion will be \$18,000 per person in 2024.
- Net worth is used for federal estate tax liability. Portability rule allows using a couple's combined exemption on death of second spouse.
- Strategies can reduce value of the estate to minimize estate tax risk.

Year	Individual	Couple
2021	\$11.7 M	\$23.4 M
2022	\$12.06 M	\$24.12 M
2023	\$12.92 M	\$25.84 M
2024	\$13.61 M	\$27.22 M
2025	2024 + inflation	
2026	Back to \$5,000,000 per person adjusted for inflation	



Thoughts on Estate Planning

- Watch for changes which may be made in federal estate and gift tax limits in 2026.
- Watch for movement to try to eliminate the “step-up” in basis for land & machinery.
- Follow Ag Law Blog at farmoffice.osu.edu
- Attend an OSU Extension Workshop in 2024.

Planning for the Future of Your Farm Workshops



Join OSU Extension to learn how to transition your farm to the next generation at one of our “**Planning for the Future of Your Farm**” workshops. These workshops are designed to jump-start your family’s discussion on farm succession and estate planning. Both on-line and in-person workshops are available.



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Choose the Location/Format Which Best Fits You

Zoom Webinar Workshop (6:30 – 8:00 p.m.)

February 5, 12, 19, and 26

In-Person Workshop Locations (9:00 to 4:00 p.m.)

Southern State Community College - Mt. Orab

Campus: November 29, 2023 (Brown County)

Celina, Ohio: December 7, 2023 (Mercer County)

Lisbon, Ohio: January 19, 2024 (Columbiana County)

Urbana, Ohio: January 26, 2024 (Champaign County)

Tiffin, Ohio: February 2, 2024 (Seneca County)

Instructors: David Marrison, OSU Extension Farm Management Field Specialist and Robert Moore, Attorney with the OSU Agricultural & Resource Law Program

More Information at: go.osu.edu/farmsuccession

farmoffice.osu.edu

CFAES provides research and related educational programs to clientele on a nondiscriminatory basis. For more information, visit cfaesdiversity.osu.edu. For an accessible format of this publication, visit cfaes.osu.edu/accessibility.

Planning for the Future of Your Farm Bulletin Series



THE PLANNING FOR THE FUTURE OF YOUR FARM BULLETIN SERIES

Farming takes planning. A lot of planning. Whether for next year's crop, expanding a herd, buying land, constructing buildings, starting a new venture, or upgrading equipment, farmers are nearly always engaged in planning to keep the farm on track. But farm transition planning—that is, planning for what happens to a farm business and its family from one generation to the next—is a whole different kind of planning. And it's one type of planning farmers often avoid.

Farm transition planning can be challenging and uncomfortable, perhaps because it involves dealing with death, uncertainty, and difficult family situations. But like planning for the next year of production, farm transition planning is critical to a farm's success. With good planning, a farm family can protect farm assets, implement family and business goals, and ensure a smooth transition of a viable operation to the next generation. It's the kind of planning that can pay off big.

Our **Planning for the Future of Your Farm** law bulletin series can help with this important planning need. In this series, we explain the legal tools used for planning and present strategies that can address a family's goals. The entire set of bulletins in this series is on the Farm Office website at go.osu.edu/farmplanning. We cover these same topics in our popular **Planning for the Future of Your Farm Workshop** offered online and in person each winter. Check the Farm Office website at farmoffice.osu.edu for workshop dates. Reading the series and attending our workshop are two important first steps that can lead to creating a plan for the future of your farm.

The authors of the *Planning for the Future of Your Farm* Series are **Robert Moore and Peggy Kirk Hall**, Attorneys with OSU's Agricultural & Resource Law Program, and **Evin Bachelor and Kelly Moore**, attorneys with Wright & Moore Law Co. LPA. We hope you will find the series helpful in your efforts to plan for the future of your farm.

Available at farmoffice.osu.edu



FARMS: Farm Asset & Resource Management Spreadsheet

FARMS: Farm Asset and Resource Management Spreadsheet

Authors: David Marrison & Robert Moore, Ohio State University Extension



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AND ENVIRONMENTAL SCIENCES

The emotional loss of a loved one is an extremely difficult time for families; especially for farm families. We can make it easier by having all our important information summarized in one document. This planning spreadsheet allows you to summarize your assets and how each is owned, valued, and titled. This information along with your liabilities will be needed by your attorney or estate planning professional as you plan your estate. The location of important documents and agreements can be listed as well as a summary of farm and personal advisors. Your personal wishes for your funeral can also be expressed. The information also will be helpful to your executor(s) as they settle your estate.

What Is Included? This spreadsheet is designed to help you pull all your critical information together so that you are better equipped to complete a succession and estate plan. The Excel workbook contains 18 sheets to use as you document your estate. Each of the tabs can be accessed by clicking on each tab on the bottom of the Excel workbook

[Introduction](#)
[Family Members](#)
[Estate Planning Questions](#)
[Financials](#)
[Other Future Income](#)
[Real Estate](#)
[Business Entities](#)
[Farm Assets](#)
[NonBusiness Assets](#)
[Liabilities and Debts](#)

[Summary of Estate](#)
[Retirement Planning](#)
[Power of Attorney](#)
[Advisors](#)
[Location of Valuable Papers](#)
[Insurance](#)
[Passwords](#)
[Funeral Planning](#)
[Statement of Intent and Other Instructions](#)

Safeguarding the Information: When you are finished with your entries, print the completed document. Due to the confidential information contained in the document, it is recommended it be placed in a secure location such as your lawyer's office or a safe deposit box. It is important that your spouse and ancestors know where the document is and have been given permission to access it in the case of an emergency or death.

go.osu.edu/excelwithfarms

Want More Information on FARMS Spreadsheet?



go.osu.edu/excelwithfarms



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Ohio Farm Resolution Services

Cultivating solutions for farms and farm families

farmoffice.osu.edu
moore.301@osu.edu
614-247-8260

Ohio Farm Resolution Services

- Ohio Farm Resolution Services (OFRS) is a dispute resolution service provided through The Ohio State University's Agricultural and Resource Law Program.
- We initially provide educational resources and consultation to farms and farm families to assist in furthering their goals and objectives or resolving issues and conflicts.
- In addition to education and consultation, OFRS provides services ranging from formal mediation services for parties involved in litigation to informal dispute resolution for neighbor issues to sitting at the kitchen table with farm families to assist with their farm transition planning.
- OFRS provides a neutral, knowledgeable mediator or facilitator to help parties resolve their differences or assist with communication and planning objectives.

Ohio Farm Resolution Services

- Issues that can be addressed by OFRS include:
 - Family communication
 - Farm transition planning
 - Business entities/ practices
 - Energy leases
 - Farm leases
 - Zoning
 - Land Use
 - Labor
 - Neighbor issues
 - Lender/creditor
 - Property disputes
 - Farmland drainage
 - Crops/Agronomics
 - USDA/ODA appeals
 - Estate disputes
- Primary Facilitators/Mediators: Peggy Hall, David Marrison, Jeff Lewis, Robert Moore
- External mediators will be used for overflow, unique issues/situations, conflicts of interest
- Educational and consulting services available now, mediation services available January 2024
- OFRS is a USDA Certified Mediation Program with funding support from USDA/ FSA
- For more information contact Robert Moore, moore.301@osu.edu, 614-247-8260 or go to farmoffice.osu.edu

Contact Information

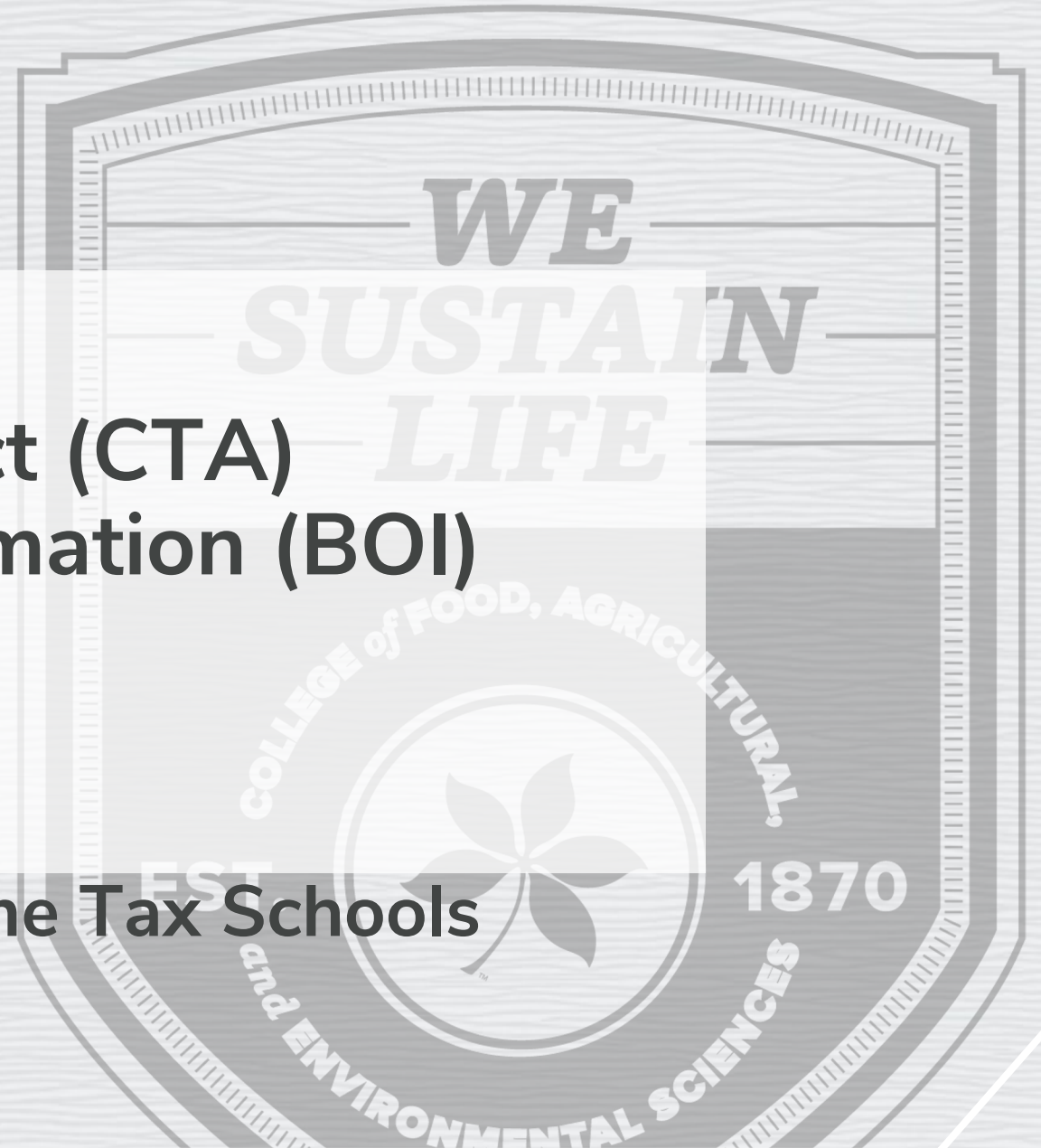
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Corporate Transparency Act (CTA) Beneficial Ownership Information (BOI) Reporting

Barry Ward, Director, OSU Income Tax Schools



THE OHIO STATE UNIVERSITY
EXTENSION



Beneficial Ownership Information Reporting

- ✓ Beginning on Jan. 1, 2024, many corporations, limited liability companies and other entities created or registered to do business in the United States must report information about their beneficial owners—the persons who ultimately own or control the company—to the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN).

Beneficial Ownership Information Reporting

- ✓ This law requires companies in the US to report to Financial Crimes Enforcement Network (FinCEN):
 - ✓ The beneficial owners of the entity and
 - ✓ The company applicants of the entity.

The CTA is designed to ban the anonymous shell companies that criminals and certain foreign officials use to hide and move corrupt proceeds and other illicit financing.

Regulations – Time Frames for Filing

The Requirements for Filing Are:

1. Beginning January 1, 2024, entities that are required to file and that were created BEFORE January 1, 2024 will have one year until January 1, 2025 to file their initial reports.
2. Beginning January 01, 2024, NEW (created in 2024) companies have to file their initial beneficial owner reports WITHIN 90 calendar (not business) days after receiving notice of their creation or registration.
3. Reporting companies will have 30 days to report changes to the information in their previously filed reports and must correct inaccurate information in previously filed reports within 30 days of when the reporting company becomes aware or has reason to know of the inaccuracy of information in earlier reports.

Change in Original Reporting Information

- ✓ Examples of changes in the original reporting would include: beneficial owner change of address, ownership change, death of an owner.
- ✓ An updated filing must be made within 30 days as previously cited.

Who Is Subject To Reporting?– Continued

- ✓ Specific entities (subject to specific exclusions based on the ownership requirements) that will have to file are corporations, limited liability partnerships, business trusts, limited partnerships, limited liability limited partnerships, and limited liability companies must file the report.
- ✓ The filing requirement includes limited liability companies that have ONE member and are sole proprietorships, e.g. Single Member LLCs

Reporting Requirements

Entities exempt from the reporting requirements must meet ALL three conditions:

1. Employ more than 20 people.
2. Revenue of more than \$5 million.
3. Physical presence in the US.

Other Exempt Entities:

1. Charitable organizations - including religious and non-profit organizations.

FinCEN states that “other types of legal entities, including certain trusts, are excluded from the definitions to the extent that they are not created by filing of a document with the secretary of state or similar office.

What Is To Be Reported?

Information To Be Reported Is:

1. Name, date of birth, and address of each beneficial owner(s).
2. A unique identification number from a driver's license, valid US passport, foreign passport or other government identification.



What Is To Be Reported? – Continued

3. The issuing jurisdiction of the acceptable identification document.
 4. The image of the document.
- If an individual provides the above information to FinCEN directly, the individual may obtain a “FinCEN identifier” which can then be provided to FinCEN on a BOI report in lieu of the required information about the individual.

Penalties

Penalties for Failure to File Report

- Both civil and criminal.
- \$500 per day.
- Criminal fines up to \$10,000 and/or imprisonment.

Current Status

- ✓ FinCEN is currently constructing the reporting system which will be identified as the Beneficial Ownership Secure System with the purpose of collecting and storing these beneficial ownership reports.
- ✓ The system is not yet available and no reports will be accepted BEFORE January 1, 2024.



Financial Crimes Enforcement Network

- ✓ Each entity is responsible
- ✓ Do-it-yourself
- ✓ Seek assistance in filing: attorneys, tax professionals, others
- ✓ <https://www.fincen.gov/boi>
- ✓ https://www.fincen.gov/boi-faqs#G_1



Allocating Tax Basis on Purchased or Inherited Farmland to Fertilizer/Nutrients

SEGREGATING FERTILITY COSTS

BY PHILIP E. HARRIS, ISU VISITING PROFESSOR

Tax rules require the purchase price of land to be allocated among the land and the various assets that are purchased with the land, such as fences, wells, roads, buildings, and timber. With the increases in the price of farmland and the cost of fertilizer, some buyers of farmland are allocating part of the purchase price of the land to fertilizer that was applied to the land before the purchase. Similarly, some taxpayers are allocating part of the date-of-death FMV of farmland to fertilizer that was applied to the land before the decedent's death. That allocation allows them to deduct the cost of the fertilizer instead of including that portion of the purchase price or date-of-death basis in the nondepreciable basis of the land.

Practitioner Note

Land Acquired by Gift

Taxpayers who acquire land by gift cannot argue that part of the value of the gift is allocated to the basis of the fertilizer purchased with the land because the donee's basis in assets is a carryover basis from the donor. Because the donor deducted the cost of the fertilizer in most cases, the donor's basis in the fertilizer is zero and that zero basis carries over to the donee.

This issue reviews the tax rules that require buyers and sellers to allocate the purchase price of a group of assets and applies those rules to fertilizer acquired with purchased or inherited farmland.

Background

As background for the discussion of allocating purchase price to land and fertilizer, the rules for determining the basis of assets; the rules for allocating the purchase price of a group of assets; and the rules for deducting the cost of fertilizer are summarized in this section.

Unadjusted Basis of Assets

A taxpayer's beginning (unadjusted) income tax basis in an asset is the cost of the asset. The unadjusted basis of a purchased asset is the asset's cost. The unadjusted basis of an inherited asset is generally the asset's FMV on the decedent's date of death [I.R.C. § 1014(a)]. The unadjusted basis of an asset acquired by gift is the donor's adjusted basis in the asset at the time of the gift [I.R.C. § 1015(a)].

If a taxpayer acquires an asset in a transaction that qualifies for a step-up in basis, the unadjusted basis is transferred from another asset. Examples include exchanges [I.R.C. § 1031(d)], involuntary conversions [I.R.C. §§ 358 and 362], and contributions of property to a partnership.

Cost Allocation Rules

I.R.C. § 1060 requires taxpayers who buy a group of assets to allocate the purchase price among the assets. If the group of assets constitutes a trade or business, the allocation rules are more complex.

- the use of such assets constitutes a trade or business, or
 - goodwill or going concern value could attach to the group of assets.
- Sellers must follow the same allocation rules to report their gain or loss. If the group of assets constitutes a trade or business, the allocation rules are more complex.

Farm Futures.

Measure and deduct soil fertility as farmland transfers

The IRS allows farmland inheritors and purchasers to write-off residual soil fertility.



Mike Downey
October 26, 2021

3 Min Read



Current Conditions for
New York, NY

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Day 82°
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Agricultural Law and Taxation Blog

A Member of the Law Professor Blogs Network



Tuesday, September 18, 2018

Deducting Residual Soil Fertility

By Roger A. McEwen

Share

Overview

When farmland is purchased, depreciation can be claimed on depreciable assets associated with the farmland starting with the first tax year in which possession of the land is taken. The amount claimed is tied to the portion of the total cost of the farmland that can be allocated to any depreciable asset, such as fencing, field drainage tile, grain storage facilities, farm buildings, and irrigation equipment, just to name a few of the more common depreciable items.

In certain parts of the Midwest, above average soil fertility is also eligible for expense deductions. The concept is known as "residual soil fertility" and it can be available to farmland buyers that didn't farm the acquired property within the immediately prior crop year.

Deductions associated with residual soil fertility, that's the topic of today's post.

The Deduction

I.R.C. §180 allows a taxpayer engaged in the trade or business of farming to annually elect (by deducting the expense on the return) the cost of fertilizer, lime, potash, or other materials which enrich, neutralize or condition land used in farming. If these fertilization costs are not expensed, they are required to be capitalized with expense



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Try This Immediately if You Got Skin Tags or Moles (It's



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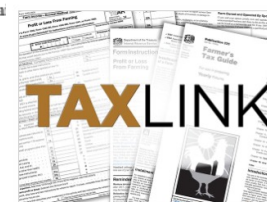
Taxlink

Residual Soil Fertility May Offer Tax Break

3/3/2023 | 1:46 PM CST



By Rod Mauszycki, DTN Tax Columnist



(DTN/Progressive Farmer illustration by Barry

It seems like I'm writing about hot topics lately. My article on cash balance plans in the December 2022 issue of Progressive Farmer (<https://www.dtnpf.com/>) caused quite a stir. I'm still fielding questions about it. I have a feeling this month's topic will result in even more interest. So, what is it? Residual soil fertility. I know, either you have never heard of it, or the last time you thought about it was 15 to 20 years ago. But it's making a comeback in a big way.

Before I start, I'm going to throw in a disclaimer. I'm only going to discuss the federal side of residual fertilizer. We have seen states not fully conform to federal and may require you to jump through more hoops. Before you decide to go forward with a fertility study, I'd recommend talking to your accountant to see if there are any known

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Family Faces Felonies on Animal Cruelty
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Kub's Den Soybeans Not 'Bidding' for Acres Because They Don't Have To



Allocating Tax Basis on Purchased or Inherited Farmland to Fertilizer/Nutrients

- ✓ If taxpayers can show that fertilizer or nutrients are a separate asset that can be distinguished from the soil, they may be able to allocate part of the purchase price/inherited value (tax basis) of farmland to fertilizer or nutrients that are in the soil at the time of purchase/inheritance.
- ✓ That allocation allows them to deduct the cost/value of the fertilizer/nutrients instead of including that portion of the purchase price or date-of-death basis in the non-depreciable basis of the land.
- ✓ Excess Fertilizer Supply or Residual Fertility
- ✓ IRC § 1060
- ✓ IRC § 180
- ✓ T.A.M. 1992-11-007



Allocating Tax Basis (Purchase Price or Inherited Value) to Fertilizer/Nutrients

- ✓ The taxpayer has the burden of proving the existence and FMV of the fertilizer or nutrients. While it appears that there is substantial authority to take this position on a Federal tax return, farmers should be aware that clear authority for this approach does not exist. Although the IRS has not been challenging these deductions (farmers have been taking them for decades), some state departments of revenue have.



Technical Advice Memorandum (T.A.M.) 1992-11-007

- ✓ Although T.A.M. 1992-11-007 denied the corporation the amortization deductions because it was not the beneficial owner of the fertilizer, it went on to say that in order to amortize the cost of fertilizer acquired with land, the taxpayer must:
 1. Establish the presence and extent of the fertilizer;
 2. Show the level of soil fertility attributable to fertilizer applied by the previous owner;
 3. Provide a basis upon which to measure the increase in fertility in the land; and
 4. Provide evidence indicating the period over which the fertility attributable to the residual fertilizer will be exhausted.

- ✓ If the T.A.M. is an indication of current IRS thinking about fertilizer purchased with land, then it appears that under the right set of facts, the IRS will allow a purchaser of land to allocate part of the purchase price to the residual fertilizer supply acquired with the land and amortize that cost over the period the fertility attributable to that residual fertilizer will be exhausted.

Cautions

- ✓ Might be considered an “aggressive” tax position
- ✓ Large basis allocations to excess fertility may raise flags
- ✓ Strongly recommend hiring a certified agronomist or certified crop advisor to conduct soil sampling to complete a report to include soil test levels, base levels, excess available nutrients, exhaustion period, etc.

REPORT NUMBER

16-091-0439

COMPLETED DATE

Apr 4, 2016

RECEIVED DATE

Mar 31, 2016

ACCOUNT

31449

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IDENTIFICATION

HOME

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Apr 04, 2016

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SOIL ANALYSIS REPORT

NUTRIENT ANALYSIS REPORT

LAB NUMBER	SAMPLE IDENTIFICATION	ORGANIC MATTER (%)	PHOSPHORUS				POTASSIUM		MAGNESIUM		CALCIUM		SODIUM		pH	CATION EXCHANGE CAPACITY (CEC)	PERCENT BASE SATURATION (COMPUTED)			
			P MEAN	P MAX	P MIN	P STD	K	Mg	Ca	Na	% K	% Mg	% Ca	% Na			% H	% Na		
296			percent	rate	ppm	rate	ppm	rate	ppm	rate	ppm	rate	ppm	rate		mg/100g	%	%	%	%
11580	0-6	3.0 M	64 VH	140 VH			285 VH	344 VH	3660 VH	31	6.8				22.0	3.3	10.8	83.1	0.0	0.6
11581	6-12	2.5 L	18 M	62 VH	18 H	18	159 M	467 VH	3975 H	116 M	7.6				24.7	1.7	15.8	80.5	0.0	2.0
11582	12-16	2.6 M	15 M	40 H	18 H	18	197 M	624 VH	4178 H	235 VH	7.3				27.6	1.8	18.8	75.7	0.0	3.7
11584	0-2	3.2 M	58 VH	105 VH			573 VH	305 VH	3328 H	29	6.7				20.8	7.1	12.2	80.1	0.0	0.6
11585	WHITE GATE	3.3 M	70 VH	150 VH			349 VH	341 VH	3784 VH	29	6.8				22.8	3.9	12.5	83.0	0.0	0.6

LAB NUMBER	SURFACE	NITRATE-N (FIA)				SULFUR S (CA)	ZINC Zn (DTPA)	MANGANESE Mn (DTPA)	IRON Fe (DTPA)	COPPER Cu (DTPA)	BORON B (DTPA)	SOLUBLE SALTS	pH						
		depth	rate	ppm	rate									depth	rate	ppm	rate	ppm	rate
296		ppm	rate	depth	rate	ppm	rate	ppm	rate	ppm	rate	ppm	rate	ppm	rate	ppm	rate	ppm	rate
11580	65	117	0-6																
11581	14	25	6-12																
11582	31	37	12-16																
11584	72	43	0-2																
11585	68	41	0-2																

NCDA&CS Agronomic Division		Phone: (919) 733-2655		Website: www.ncagr.gov/agronomi/		Report No. FY18-SL00000	
Predictive		Client:		Advisor:			
Soil Report		Mehlich-3 Extraction		Sampled: Not Provided		Sampled County: Lee	
Links to Helpful Information		Received: 09/08/2017		Completed: 09/19/2017		Client ID: 000000	
Farm:		Advisor ID:					
Sample ID: R1	Recommendations:	Lime (tons/acre)	N	P ₂ O ₅	K ₂ O	Mg	S
Crop	1 - Fescue/OGrass/Tim, M	0.0	120-200	30	100	0	0
Lime History:	2 -						
Test Results [units - W/V in g/cm ³ ; CEC and Na in meq/100 cm ² ; NO ₃ -N in mg/dm ³]:		Soil Class: Mineral					
HM% W/V	CEC	BS% Ac	pH	P-I	K-I	Ca%	Mg%
0.22 0.85	6.5	85	1.0	6.4	45	18	54
Sample ID: R2	Recommendations:	Lime (tons/acre)	N	P ₂ O ₅	K ₂ O	Mg	S
Crop	1 - Fescue/OGrass/Tim, M	0.3	120-200	80	100	0	0
Lime History:	2 -						
Test Results [units - W/V in g/cm ³ ; CEC and Na in meq/100 cm ² ; NO ₃ -N in mg/dm ³]:		Soil Class: Mineral					
HM% W/V	CEC	BS% Ac	pH	P-I	K-I	Ca%	Mg%
0.22 0.86	6.0	78	1.3	5.8	23	22	51
Sample ID: B1	Recommendations:	Lime (tons/acre)	N	P ₂ O ₅	K ₂ O	Mg	S
Crop	1 - Fescue/OGrass/Tim, M	0.9	120-200	130	110	0	0
Lime History:	2 -						
Test Results [units - W/V in g/cm ³ ; CEC and Na in meq/100 cm ² ; NO ₃ -N in mg/dm ³]:		Soil Class: Mineral					
HM% W/V	CEC	BS% Ac	pH	P-I	K-I	Ca%	Mg%
0.27 0.78	6.3	73	1.7	5.4	7	17	57

Farmer Qualifying for Special Estimated Tax Rules



Department
of the
Treasury
Internal
Revenue
Service

Publication 225
Cat. No. 11049L

Farmer's Tax Guide

For use in preparing
2023 Returns

Acknowledgment: The valuable advice and assistance given us each year by the National Farm Income Tax Extension Committee is gratefully acknowledged.



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 • IRS.gov/Spanish (Español) • IRS.gov/Russian (Русский)
 • IRS.gov/Chinese (中文) • IRS.gov/Vietnamese (Tiếng Việt)

Contents

Introduction	1
What's New for 2023	2
What's New for 2024	3
Reminders	3
Chapter 1. Importance of Records	4
Chapter 2. Accounting Methods	6
Chapter 3. Farm Income	9
Chapter 4. Farm Business Expenses	19
Chapter 5. Soil and Water Conservation Expenses	28
Chapter 6. Basis of Assets	31
Chapter 7. Depreciation, Depletion, and Amortization	37
Chapter 8. Gains and Losses	49
Chapter 9. Dispositions of Property Used in Farming	57
Chapter 10. Installment Sales	60
Chapter 11. Casualties, Thefts, and Condemnations	66
Chapter 12. Self-Employment Tax	74
Chapter 13. Employment Taxes	79
Chapter 14. Fuel Excise Tax Credits and Refunds	85
Chapter 15. Estimated Tax	88
Chapter 16. How To Get Tax Help	89
Index	93

Introduction

You are in the business of farming if you cultivate, operate, or manage a farm for profit, either as owner or tenant. A farm includes livestock, dairy, poultry, fish, fruit, and truck farms. It also includes plantations, ranches, ranges, and orchards and groves.

This publication explains how the federal tax laws apply to farming. Use this publication as a guide to figure your taxes and complete your farm tax return. If you need more information on a subject, get the specific IRS tax publication covering that subject. We refer to many of these free publications throughout this publication. See [chapter 16](#) for information on ordering these publications.

The explanations and examples in this publication reflect the IRS's interpretation of tax laws enacted by Congress, Treasury regulations, and court decisions. However, the information given does not cover every situation and is not intended to replace the law or change its meaning.

- ✓ Farmers can avoid paying estimated tax if they are “qualified”.
- ✓ An individual is a qualified farmer if at least 2/3 of their gross income from all sources is from farming
- ✓ Gross income from farming is the total of the following amounts from your tax return:
 - ✓ Gross farm income from Schedule F (Form 1040).
 - ✓ Gross farm rental income from Form 4835.
 - ✓ Gross farm income from Schedule E (Form 1040), Parts II and III.
 - ✓ Gains from the sale of livestock used for draft, breeding, sport, or dairy purposes reported on Form 4797.
 - ✓ Gains from the sale of depreciable farm equipment reported on Form 4797.

A background image of a Purdue University campus. In the foreground, there is a large, modern, abstract sculpture with several tall, curved, light-colored concrete pillars. Behind the sculpture, a large, multi-story brick building with a classical portico and columns is visible. The scene is surrounded by trees with pink blossoms, suggesting a spring setting. The sky is clear and blue.

Depreciation and Key Expiration Dates

Michael Langemeier

Department of Agricultural Economics

Purdue University

Depreciation

What Property Can Be Depreciated?

- It must be property you own
- It must be used in your trade or business
- It must have a determinable useful life
- It must have a useful life that extends beyond the year you place it in service

When Does Depreciation Begin and End?

- You begin to depreciate property when you place it in service for use in your trade or business.
- You stop depreciating property either when you have fully recovered your cost or basis or when you retire it from service, whichever happens first.

Capital Cost Recovery

- **MACRS Depreciation**
 - New farm equipment and machinery placed in service after 12/31/17 are classified as 5-year MACRS property rather than their previous classification as 7-year property.
 - For assets placed in service after 12/31/17, the rate of depreciation was increased to 200% DB for farm assets in the 3, 5, 7, and 10-year MACRS recovery classes.

Property Classes

- Autos and Trucks: 5 years
- Cattle (dairy or breeding): 5 years
- New farm machinery and equipment: 5 years
- Fences: 7 years
- Grain Bins: 7 years
- Used farm machinery and equipment: 7 years
- Agricultural Structures (Single Purpose): 10 years
- Drainage tile: 15 years
- Farm buildings (general purpose): 20 years

Excess Depreciation

- The increase in the rate of depreciation for many farm assets, combined with a shorter MACRS recovery class for new farm equipment and machinery, may generate more depreciation than is needed.
- For these taxpayers, it may be prudent to use the SL or 150% methods. Both elections are made on a class-by-class basis each year.

Capital Cost Recovery

- **Section 179**
 - \$1.16 million in 2023
 - \$2.89 million phase-out threshold in 2023
 - Indexed for inflation
- **Bonus Depreciation**
 - 100% for 2022
 - 80% for 2023
 - 60% for 2024
 - 40% for 2025
 - 20% for 2026

Section 179 Expense

- **What Property Qualifies?**
 - **Tangible Personal Property (buildings are excluded)**
 - **Single Purpose Agricultural or Horticultural Structures**
 - **It must be acquired primarily for business use**
 - **It must have been acquired by purchase**

Bonus Depreciation

- **What Property Qualifies?**
 - Recovery period less than or equal to 20 years
 - Qualified property can be either new or used property

Section 179 vs. Bonus Depreciation

- The limit on the section 179 deduction may be irrelevant for the next few years because the Tax Cut and Jobs Act (TCJA) allows for bonus depreciation on both new and old property.
- Election:
 - Section 179 Deduction: election to expense any part of a qualifying asset
 - Bonus Depreciation: automatically applies unless taxpayer elects out on a class-by-class basis.

Section 179 vs. Bonus Depreciation

- **Example**
 - Tim Lange has \$250,000 in net cash income before depreciation.
 - His goal is to have enough depreciation to create net farm profit of \$25,000
 - Tim's depreciation on assets acquired before 2023 is \$125,000. His equipment purchases in 2023 are \$250,000 (all in the same class; 5-year property)
 - If he does not elect out of bonus depreciation, he will have to expense the entire \$250,000, leading to a net farm loss.

Section 179 vs. Bonus Depreciation

- **Example (continued)**
 - Tim can elect out of bonus depreciation and elect to expense \$62,500 under section 179.
 - His remaining basis in the new equipment before MACRS depreciation is \$187,500 (\$225,000 - \$62,500). As 5-year property, regular MACRS depreciation will be \$37,500 $\{(\$187,500 / 5) \times 0.5 \times 200\%$.
 - Subsequently, Tim will reach his net farm profit goal of \$25,000.

Key Expiration Dates

Examples

- **IRS Section 24: child tax credit (2025)**
- **IRS Section 63: increase in standard deduction (2025)**
- **IRS Section 67 (g): suspension of miscellaneous itemized deduction (2025)**
- **IRS Section 151 (d) (5): suspension of deduction for personal exemptions (2025)**
- **IRS Section 164 (b) (6): limitation on deduction for state and local taxes, and property taxes (2025)**
- **IRS Section 165 (h): personal casualty losses limited to federally declared disaster areas (2025)**

Examples

- **IRS Section 168 (k), 460: additional first-year depreciation (2026)**
- **IRS Section 199A: qualified business income deduction (2025)**
- **IRS Section 2010: increase in estate and tax exemptions (2025)**

Questions, Comments

www.ag.purdue.edu/commercialag



Form 1099-K Reporting

What is a 1099-K?

- A report of payments you got for goods or services sold during the year from:
 - Credit, debit, or stored value cards (gift cards)
 - Payment apps or online marketplaces – also called third party settlement organizations (TPSOs)
 - Venmo
 - Cash App
 - Etc.

What about payments from family and friends?

- Payments from family and friends **should not** be reported on a 1099-K
- Will Venmo or Cash App differentiate between family and friend payments and payments for the sale of a good or service?

1099-K Reporting Requirements

2023	\$20,000
2024	\$5,000
2025	\$600

What if I Receive a 1099-K in Error?

1. Don't ignore it
2. Seek to get a corrected Form 1099-K
3. If no corrected Form 1099-K, then:
 1. Enter 1099-K on Part I – Line 8z with the notation “Form 1099-K received in error, \$(insert amount)”
 2. Then adjust it on Part II – Line 24z – with the notation “Form 1099-K received in error, \$(insert amount)”

Charitable Remainder Trusts Tax Scheme

Charitable Remainder Trusts

- Charitable Remainder Trusts (“CRTs”) are irrevocable trusts that let you donate assets to charity and draw annual income for life or for a specific period of time.

How CRTs Work

1. Donor transfers property, cash, or other assets (like grain or machinery) into an irrevocable trust.
2. The trust will then sell the assets and invest the proceeds.

How CRTs Work

3. From the proceeds, the trust pays income to at least 1 living beneficiary for a specified payment term.
4. At the end of the payment term, the remainder of the trust passes to 1 or more qualified U.S. charitable organizations.

Reasons to Create a CRT

- Charitable purpose
- Provide predictable income for life, or over a specific period of time
- Allow you to defer income taxes on the sale of assets transferred to the trust

The CRT Tax Scheme

- CRTs are being misused by promoters and advisors to improperly eliminate ordinary income and capital gain on the sale of property.

The CRT Tax Scheme – What it looks like

1. Property with a FMV greater than Donor's basis is transferred to the CRT.
2. Then the trust erroneously decides to take a step up in basis rather than carry over the basis of the donor's property.
3. The CRT then sells the property but does not recognize any gain because of the claimed "step up in basis."
4. By misapplying the tax code, the beneficiary then treats all payments from the trust as excluded from tax.

The Moral of the Story

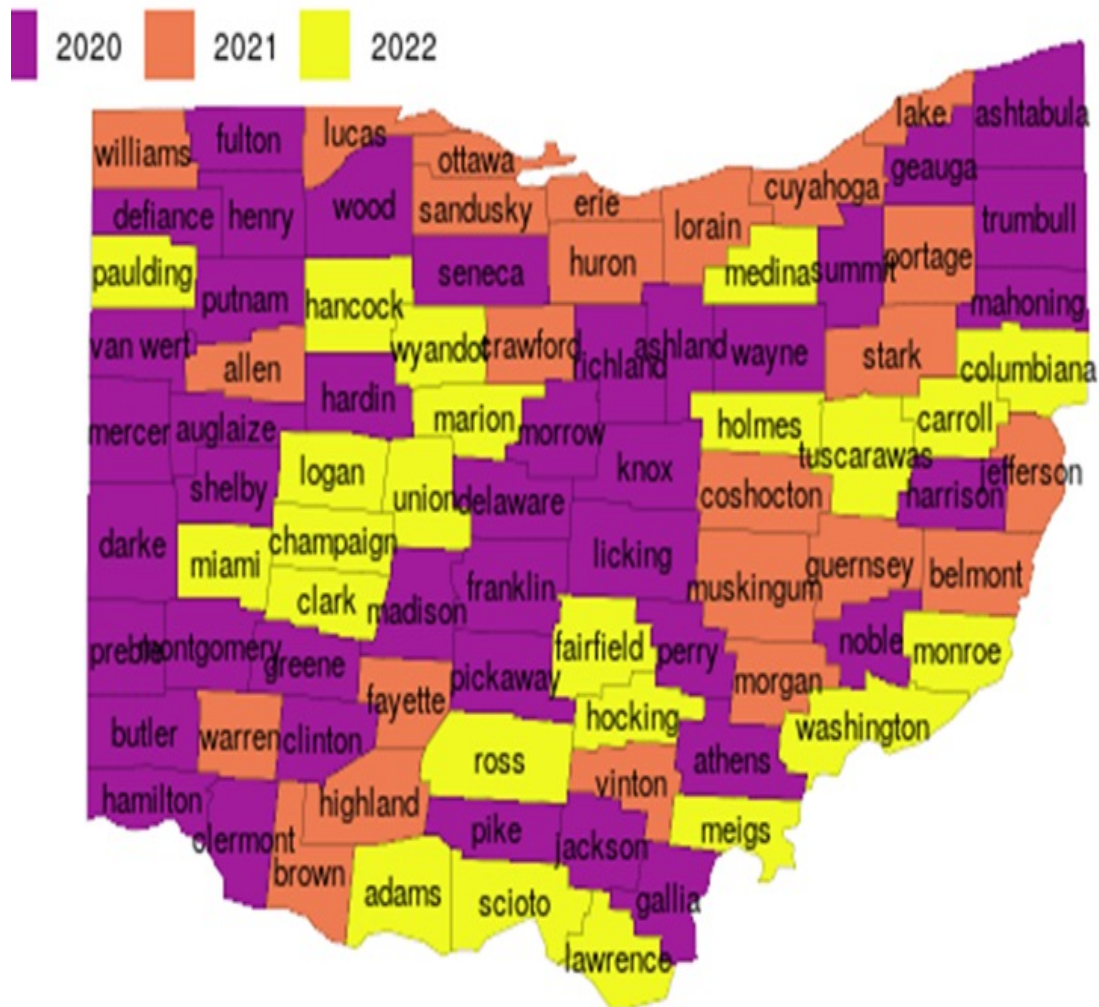
- Make sure you are working with a trusted tax professional or attorney when creating a CRT.
- If it sounds too good to be true, it probably is.

Ohio Tax Update

Current Ag Use Valuation (CAUV)



Schedule for updating CAUV



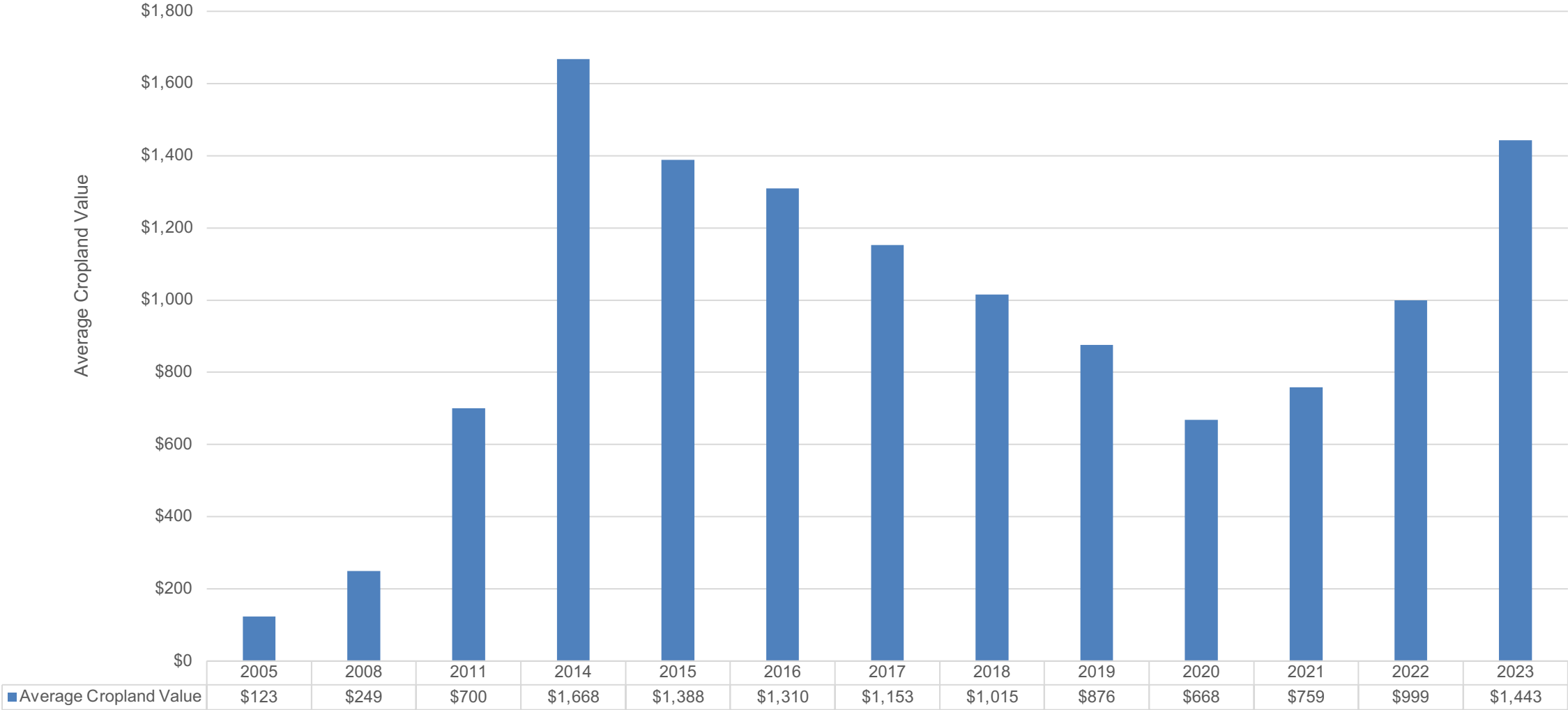
Source: Ohio Department of Taxation

CAUV Formula: (Net Income Method Appraisal Approach)

(Gross Income* –
Total Non-Land Production Costs)
/ Base Cap Rate

*Gross Income = Price x Yield

Average CAUV Value



CAUV Formula Variables

Yields bu/ac

		TY 2020	TY 2021	TY 2022	TY 2023
Crop	1984 Base 2010-2019	2011-2020	2012-2021	2013-2022	
Corn	118.0 bu	162.3	163.4	167.4	174.1
Soybean	36.5 bu	50.2	50.8	51.8	52.9
Wheat	44 bu	68.2	69.2	72.0	73.1

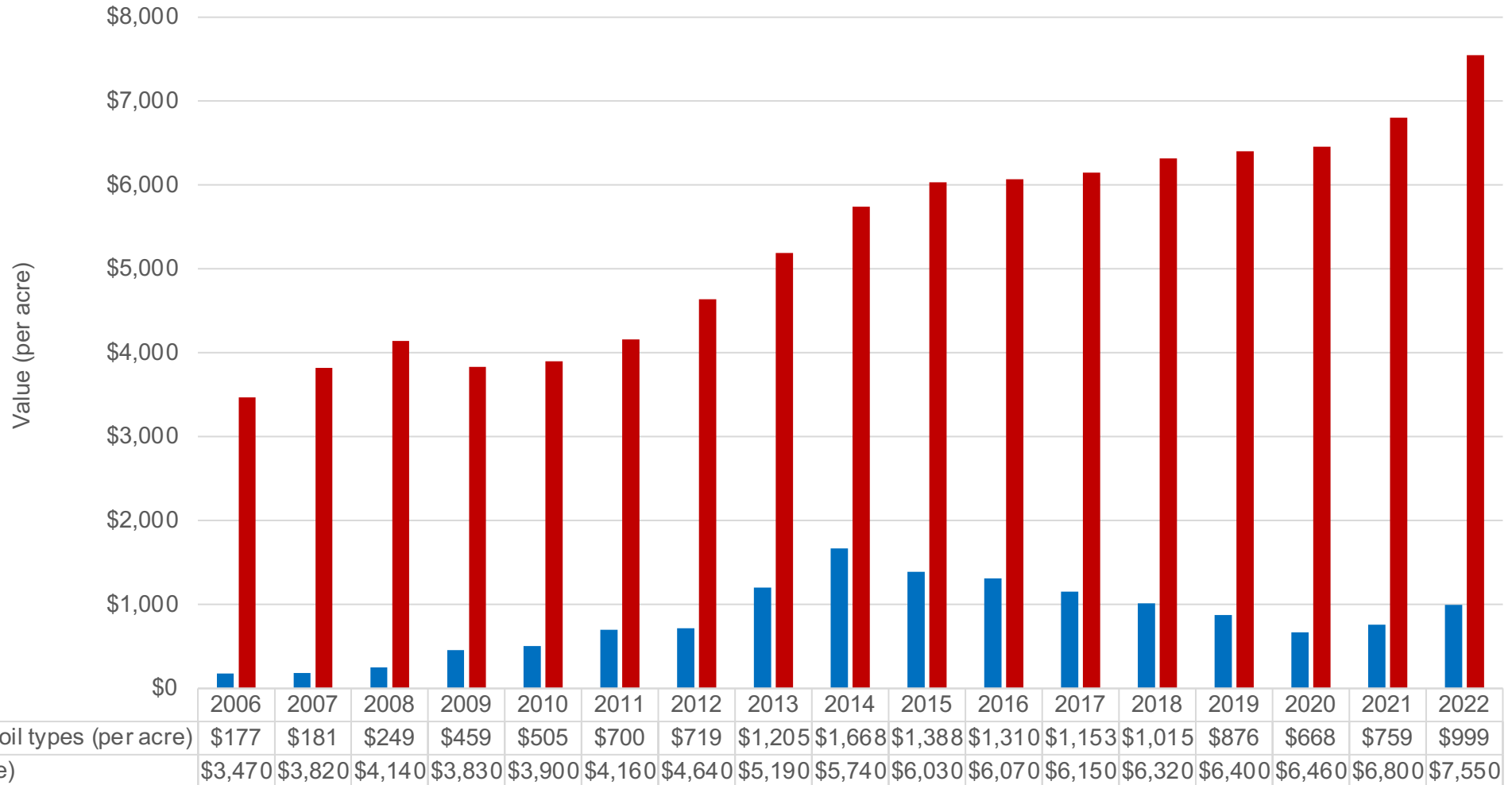
Prices \$/bu

		TY 2020	TY 2021	TY 2022	TY 2023
Crop	Unit	2013-2019	2014-2020	2015-2021	2016-2022
Corn	\$/bu	\$3.63	\$3.59	\$3.77	\$4.21
Soybean	\$/bu	\$9.12	\$9.10	\$9.32	\$10.22
Wheat	\$/bu	\$4.84	\$4.76	\$4.75	\$5.20

CAUV Variables Driving Higher Values

- ✓ Higher yields
- ✓ Higher crop prices
- ✓ Higher non-land production costs
- ✓ Low interest rates
 - ✓ Higher rates will drive values lower

Average CAUV (Formula) & Ohio Cropland Value – USDA Dollars per Acre, 2006-2022



CAUV Formula Variables

CAUV	Non-Land Production Costs					
	Corn			Soybeans		
	Low	Mid	High	Low	Mid	High
2014 to 2020	\$543	\$597	\$645	\$346	\$361	\$375
2017 to 2023	\$591	\$651	\$705	\$360	\$379	\$399
	8.83%	8.94%	9.22%	3.86%	5.14%	6.35%

CAUV Variables Driving Higher Values

- ✓ Higher yields
- ✓ Higher crop prices
- ✓ Higher non-land production costs
- ✓ Low interest rates
 - ✓ Higher rates will drive values lower

Cropland, Simple Average CAUV Value by Productivity Index 2015-2022

Average CAUV Values by Year, 2015-2023									
Productivity Index									Proposed Final 2023
	2015	2016	2017	2018	2019	2020	2021	2022	
0-49	350	350	350	350	350	350	350	350	350
50-59	518	466	430	400	378	351	358	409	607
60-69	1371	1235	1061	896	731	488	598	915	1502
70-79	2347	2255	1969	1723	1469	1073	1253	1672	2364
80-89	3354	3302	2909	2586	2270	1783	1969	2439	3244
90-99	4104	4074	3602	3226	2863	2303	2512	3007	3871
100+	4770	4750	4205	3810	3420	2820	2990	3550	4430
Average	1388	1310	1153	1015	876	668	759	999	1443
Total No. of Soils	3514	3514	3514	3514	3514	3517	3517	3517	3517

CAUV Legislation

Senate passed substitute HB 187 that did not include CAUV provisions that were included in the House version.

Senate has CAUV provisions in a separate bill (SB153) that is currently sitting in committee with no hearings scheduled

CAUV provisions passed in House version of HB 187 would allow for the averaging of the three years of CAUV since the last appraisal/update

2023 CAUV Average ~\$1,443

2023 CAUV Average with legislative change (that likely won't be passed this year) ~\$1,067

Ohio Beginning Farmer Tax Credit

Meeting Ohio's Beginning Farmer Needs:

- Ohio HB 95 Beginner Farmer Tax Credit passed in August 2022 granting 3.99% tax *credit* to landowners who sell or lease assets to a Certified Ohio Beginning Farmer.



Ohio's Beginning Farmer Income Tax Credits

Peggy Kirk Hall, Associate Professor
OSU Extension Agricultural & Resource Law Program

The idea to use income tax incentives to help Ohio's beginning farmers gain access to agricultural assets has floated around the Ohio General Assembly for several years. That idea became a reality when Ohio's Beginning Farmer Bill, House Bill 95, became effective on July 18, 2022. A bi-partisan effort by Rep. Susan Manchester (R-Waynesfield) and Rep. Mary Lightbody (D-Columbus), the law is now in the hands of the Ohio Department of Agriculture (ODA), who is charged with implementing its provisions. ODA expects the new program to be available in 2023.

The Beginning Farmer law has four parts: a process for certifying "beginning farmers," establishment of financial management programs for beginning farmers, income tax credits for certified beginning farmers, and income tax credits and those who sell or lease assets to certified beginning farmers. Note that the law has a "sunset date" of January 1, 2028, and limits total income tax credits granted to \$10 million. Here's a summary of each part of the new law.

1. Certification of beginning farmers. The law charges ODA with the task of certifying individuals as "beginning farmers." Initial eligibility criteria for beginning farmers are listed in the law, but the law also grants ODA authority to create additional

OSU EXTENSION AGRICULTURAL & RESOURCE LAW PROGRAM

requirements and to seek participation from Ohio State and Central State in the certification process. The law states that to become certified as a beginning farmer, an individual must meet these minimum requirements:

- Resident of Ohio.
- Seeking entry to or has entered farming within the last 10 years.
- Farming or intending to farm in Ohio.
- Is not a partner, member, shareholder, or trustee of the assets the individual is seeking to purchase or rent.
- Has a total net worth of less than \$800,000 in 2021, including spouse and dependent assets, as adjusted for inflation each year.
- Provides majority of daily physical labor and management of the farm.
- Has adequate farming experience or knowledge in the type of farming for which seeking assistance.
- Submits projected earnings statements and demonstrates profit potential.
- Demonstrates farming will be a significant source of income for the individual.
- Participates in a financial management program approved by ODA.

Information about how an individual can apply for the beginning farmer certification is expected from ODA as the agency finalizes its plans for implementing the certification process.

<http://farmoffice.osu.edu>

2. Financial management programs for beginning farmers. Certification as a beginning farmer requires that an individual has participated in a financial management program that has been approved by ODA. The purpose of this provision is to help beginning farmers secure the financial management skills necessary for future success. The law requires ODA to establish a procedure for certifying the educational programs individuals can take to meet the certification requirement and allows ODA to also include substantially equivalent financial management programs already approved by USDA. ODA must also publicize the certified programs on its website, so that individuals will know which programs qualify for the certification. ODA is currently developing its procedures for approving financial management programs and will maintain a list of the approved programs on the ODA website.

3. Income tax credits for certified beginning farmer education. The law allows certified beginning farmers to apply for an income tax credit for the cost of participating in an approved financial management educational program. The tax credit will equal the program cost incurred during the calendar year. It is a nonrefundable tax credit, and if it exceeds the beginning farmer's tax liability in the year granted, may carry forward for not more than three succeeding tax years.

4. Income tax credits for owners who sell or rent assets to certified beginning farmers. The new law provides tax credits to owners of "agricultural assets" who sell or rent those assets to a farmer who is a certified beginning farmer. There are several important components to the law:

- The beginning farmer must first be certified.
- The sale of assets must occur during the calendar year the credit is applied for, or for the rental of assets, during the calendar year applied for or in either of the two preceding calendar years.

- The tax credit will be 3.99% of the sale price or of the gross rental income received during a calendar year for a cash or share rental agreement.
- "Agricultural assets" are those used for agricultural production in Ohio, including land (10+ acres in agricultural production or if under 10 acres, earning \$2500 in average annual gross income), livestock, facilities, buildings, and machinery.
- The owner of an agricultural asset cannot be an equipment dealer or an entity in the business of selling assets for profit.
- The certified beginning farmer cannot be a partner, member, shareholder, or trustee with the owner of the assets received.
- Rented assets must be rented at prevailing community rates, as determined by ODA in consultation with Ohio's tax commissioner.
- The tax credit is nonrefundable but may be carried forward for seven succeeding tax years if it exceeds the owner's tax liability.

Time to plan. As we await the final guidance from ODA on how to become certified and apply for the income tax credits in 2023, now is the time for planning. Since this is a limited program, the \$10 million in available tax credits might go quickly and proper timing could be essential. You may need to identify a beginning farmer now who fits the criteria or an owner who wants to sell or rent assets. Review the law with an attorney and accountant, being aware of timing and financial incentives. Although the 3.99% tax credit for those transfers may not sound significant, run the numbers, and see how they could play out. The hope of the new law is that those numbers will be enough to help a beginning farmer gain access to the assets that are critical to farming in Ohio.

The new Beginning Farmer law is in **Ohio Revised Code Section 901.61**, available online at <https://codes.ohio.gov/ohio-revised-code/section-901.61>

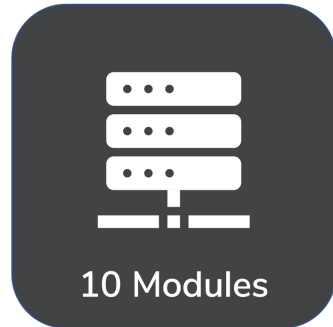
OSU EXTENSION AGRICULTURAL & RESOURCE LAW PROGRAM

<http://farmoffice.osu.edu>

Meeting Ohio's Beginning Farmer Needs

- OSU's 4-prong approach approved in December 2022
 1. "Farm On" Financial Management Course (on-demand, self-paced, virtual) – Eric Richer
 2. Beginner and Small Farm Colleges (in-person, regional, 4-nights) – David Marrison
 3. AEDE 3104 – Farm Business Mgmt (undergraduate course, Columbus) – Barry Ward
 4. ANMLTEC/CRPSOIL 3800T – Farm Business Mgmt (undergraduate course, Wooster) – Royce Thorton
- Beginning Farmers receive a tax credit for cost of the course.

“Farm On” Course:



- Cost \$300 per person
- Hosted on the **scarlet** platform
CANVAS
- Prepares documents for ODA Certified Beginning Farmer Program and USDA-FSA's Beginning Farmer & Rancher loans.
- www.go.osu.edu/farmon



“Farm On” Modules:

CFAES

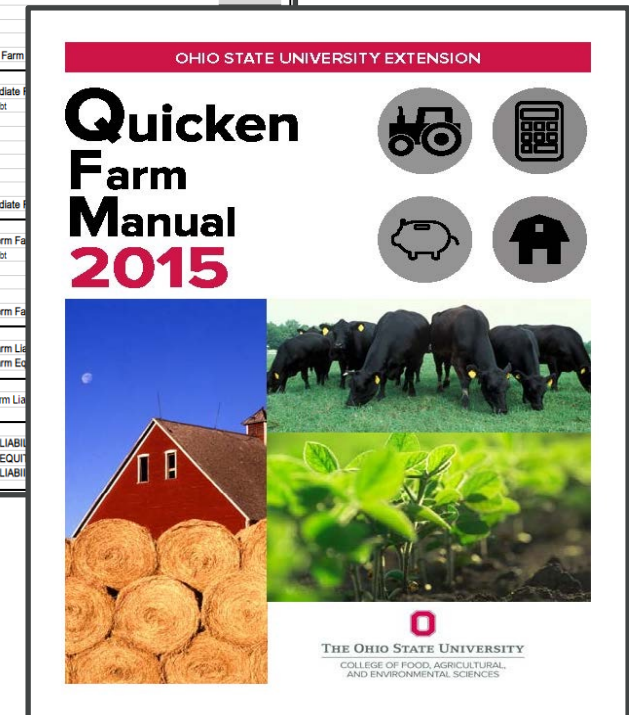
1. Farm Business Planning
2. Balance Sheet
3. Income Statements
4. Statement of Cash Flows
5. Cost of Production
6. Record Keeping
7. Farm Taxes
8. Farm Finances
9. Risk Management
10. Farm Financial Analysis

CFAES OHIO STATE UNIVERSITY EXTENSION

Farm Balance Sheet

Name: _____
Address: _____
Phone: _____
Date of Statement: _____

Current Farm Assets		Mkt. Value	Current Farm Liabilities		\$ Owed	
Cash & Equivalents	Sch. 1	-	Accounts Payable	Sch. 19	-	
Marketable Bonds & Securities	Sch. 2	-	Operating Loans	Sch. 20	-	
Accounts & Notes Receivable	Sch. 3	-	Principal Due <1 year		-	
Market Livestock	Sch. 4	-	Interest Due <1 year		-	
Crop Inventory & Receivables	Sch. 5	-	Other		-	
Growing Crops	Sch. 6	-				
Prepaid Expenses	Sch. 7	-				
Other Current Assets	Sch. 8	-				
Current Farm Assets, Total		A	Current Farm Liabilities, Total		B	
Intermediate Farm Assets		B	Intermediate Farm Liabilities		C	
Machinery & Equipment	Sch. 13	-	Term Debt		-	
Farm Vehicles	Sch. 14	-	Other		-	
Breeding Stock	Sch. 9	-				
Notes Receivable over 12 mo.	Sch. 10	-				
Not Ready Cash Bonds & Securities	Sch. 11	-				
Other Intermediate Farm Assets	Sch. 12	-				
Intermediate Farm Assets Total		B	Intermediate Farm Liabilities Total		C	
Long Term Farm Assets		C	Long Term Farm Liabilities		D	
Real Estate & Land	Sch. 15	-	Term Debt		-	
Buildings & Improvements	Sch. 16	-	Other		-	
Other Long Term Assets	Sch. 17	-				
Long Term Farm Assets		C	Long Term Farm Liabilities		D	
Total Farm Assets (A+B+C)		G	Total Farm Liabilities (B+C+D)		H	
Non-Farm Assets		Sch. 18	H	Non-Farm Liabilities		I
TOTAL ASSETS		K	TOTAL LIABILITIES		L	
			TOTAL EQUITY		M	
			TOTAL LIABILITIES & EQUITY		N	



The Process

1. Beginning Farmer completes the course (certificate).
2. Submits certificate, receipt and ODA Beg. Farmer App.
3. Waits for or has a purchase/lease agreement.
4. Senior Farmer submits Beg Farmer name (certificate), purchase/lease agreement and ODA Asset Transfer App.
5. ODA passes on the 2 entities' names to OH Dept of Taxation for tax paper trail.

Details at: <https://agri.ohio.gov/programs/farmland-preservation-office/Beginning-Farmer-Tax-Credit-Program>

An official State of Ohio site. [Here's how you know](#) v

Language Translation



AGRICULTURE
IN OHIO

SAFEGUARDING
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Programs / Farmland Preservation Office / Beginning Farmer Tax Credit Program



Farmland Preservation
Office

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FARMLAND PRESERVATION
TOOLKIT

RESOURCES

QUESTIONS

FORMS

Beginning Farmer Tax Credit Program



Share this

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For more information

Have questions?

Email: BeginningFarmer@agri.ohio.gov


Phone: (614) 728-6238

The Beginning Farmer Tax Credit program was created through [House Bill 95](#), signed into law by Governor Mike DeWine on April 21, 2022. It offers income tax credits in two categories:

The ODA Applications:

Beginning Farmer Criteria	▼
Asset Owner Criteria	▼
Applications	▲
<u>Beginning Farmer Tax Credit Application</u>	
<u>Beginning Farmer Tax Credit Asset Transfer Form</u>	
Eligible Courses	▼

ODA Beginning Farmer Tax Credit App

 **Department of Agriculture**
8995 E. Main St., Reynoldsburg, OH 43068
www.agri.ohio.gov 614.728.6201

Application Ohio Beginning Farmer Tax Credit Program

The data on the form will be used to certify your status as a beginning farmer. You are not legally required to provide all of the information on this form, but the Ohio Department of Agriculture will only certify beginning farmers who provide all of the requested information. The information will be shared with the Ohio Department of Taxation to validate your tax credit.

A Beginning Farmer Information

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

County: _____

Do you meet the following requirements? Please check (Yes) or (No) Boxes. Please provide documents that support qualifications including business plans, projected earnings statements, etc.)

	Yes	No
I am an Ohio resident.	<input type="checkbox"/>	<input type="checkbox"/>
I have less than 10 years experience as a farm owner/operator.	<input type="checkbox"/>	<input type="checkbox"/>
I will farm land located within Ohio.	<input type="checkbox"/>	<input type="checkbox"/>
I will provide the majority of the daily physical labor and management.	<input type="checkbox"/>	<input type="checkbox"/>
My household net worth is less than \$800,000.* (Includes assets and liabilities of individual's spouse and dependents.)	<input type="checkbox"/>	<input type="checkbox"/>
I have farming experience.	<input type="checkbox"/>	<input type="checkbox"/>
I have completed a Farm Financial Management program.	<input type="checkbox"/>	<input type="checkbox"/>
I expect my farming enterprise to be profitable and to be a significant source of income.	<input type="checkbox"/>	<input type="checkbox"/>

*Net worth should be less than \$800,000 in 2021 and an amount in subsequent years which is adjusted for inflation by multiplying that amount by the cumulative inflation rate as determined by the consumer price index (all items) prepared by the United States Bureau of Labor Statistics.

B Past Experience (Required by all applicants. Continue on separate page if necessary.)

Experience: List all farm/livestock experience, related hobbies, affiliation with clubs/organizations, growing up on a farm, etc.

Experience	Job Duties	Length of Time	Date

Page 1

Education/Training: List schools, workshops, and courses attended (include farm financial training)

School/Organization	Course Description	Length of Course	Date

C Beginning Farmer Information

Provide a Cash Flow:
A cash flow with positive net outcome includes all farm and off-farm income and expenses, including any rented ground, facilities, livestock, equipment, or other assets, and family living expenses of the beginning farmer, spouse, and dependent(s).

Estimated Cash Flows	2022	2023	2024
Farming Income	\$ _____	\$ _____	\$ _____
Farming Expenses	\$ _____	\$ _____	\$ _____
Net	\$ _____	\$ _____	\$ _____

I have signed up for an approved Farm Financial Management course. (The cost of the course will be the out-of-pocket cost of the course, outside of any grants, etc.) Please provide proof of cost and completion.

Name of Courses: _____

Date: _____ Out of Pocket Cost of Courses: \$ _____ Location: _____
Phone: _____

Financial Management Program Name: _____

Program Contact Information: _____

I certify that the above information and any supplemental information is correct and true to the best of my knowledge. Furthermore, I will adhere to the Beginning Farmer Tax Credit Act and Regulations.


Signature: _____

Deadline to Apply: October 3 of the year for which the tax credit is sought.
Applicants are highly encouraged to submit applications early in the year.
If any information on this application changes, please contact the Ohio Department of Agriculture.

For any questions, contact:
Ohio Department of Agriculture
Office of Farmland Preservation
Beginning Farmer Tax Credit Program
8995 E. Main St., Reynoldsburg, OH 43068
614.728.6201
beginningfarmer@agri.ohio.gov

Page 2

ODA Beginning Farmer Tax Credit Asset Transfer Form (Senior Farmer)

 **Department of Agriculture** 8995 E. Main St., Reynoldsburg, OH 43068
www.agri.ohio.gov 614.728.6201

Application

Ohio Beginning Farmer Asset Transfer Tax Credit Form

☐ New Application ☐ Recertification of a Previous Year's Multi-Year Lease Application

A Beginning Farmer Information (Note: Applicant name must match purchaser/renter on the lease)

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

County: _____

☐ Please provide a copy of your Certified Beginning Farmer designation.

B Transferring Farmer Information (Note: Applicant name must match purchaser/renter on the lease)

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

County: _____

C Agricultural Assets Information

Name of all owner(s)/landlords of the agricultural assets: _____

☐ Please provide proof of sale of assets, executed copy of a rental agreement or a rent share agreement.

If land, legal description of the land you will sell/rent under Beginning Farmer Tax Credit						
County	# of Acres	Section/Sub-Section (eg. S 1/2-NW 1/4)	Section	Township	Range	Dollar Amount

Description of the Agricultural Asset you are selling/renting: (complete applicable fields)

County	# of Assets	Make/Model	Dollar Amount

The individual selling or renting assets must sign this statement. Documentation will be required for authorization purposes.

I certify that the above information and any supplemental information is correct and true to the best of my knowledge. Furthermore, I will adhere to the Beginning Farmer Tax Credit Act and Regulations.

Signature: _____

Deadline to Apply: December 31 of the year for which the tax credit is sought.
Applicants are highly encouraged to submit applications early in the year.
If any information on this application changes, please contact the Ohio Department of Agriculture.

For any questions, contact:
Ohio Department of Agriculture
Office of Farmland Preservation
Beginning Farmer Tax Credit Program
8995 E. Main St., Reynoldsburg, OH 43068
614.728.6201
beginningfarmer@agri.ohio.gov

Contact Information

David L. Marrison
Field Specialist – Farm Management
OSU Extension
740-722-6073
marrison.2@osu.edu

Commercial Activity Tax Update

Commercial Activity Tax Update

- New laws relating to Commercial Activity Tax ("CAT") were passed in the biennial budget.
- For taxable gross receipts earned in 2023:
 - Everything remains the same as it has been

Commercial Activity Tax Update

- For taxable gross receipts earned in 2024:
 - Businesses may exclude the first \$3,000,000 of taxable gross receipts.
- For taxable gross receipts earned in 2025 and beyond:
 - Business may exclude the first \$6,000,000 of taxable gross receipts.
- Annual Minimum Tax Eliminated
- All taxpayers will be required to file quarterly; Calendar year filing eliminated.

Tax Law Interpretation in Ohio

Stingray Pressure Pumping L.L.C. v. Harris

- **Issue:** When should Ohio's Sales Tax Exemption for equipment used in oil and gas production apply?
- **Facts:**
 - *Stingray* was charged Ohio Sales Tax on:
 - A data van
 - Blenders
 - Sand kings
 - T-belts
 - Hydration units
 - Chemical-additive units

Stingray Pressure Pumping L.L.C. v. Harris

- **Facts:**
 - Tax Commissioner concluded the fracking equipment was not used directly in the extraction of oil and gas, only indirectly, and therefore did not qualify for the sales tax exemption.
 - *Stringray* appealed Tax Commissioner's opinion.
- **Ohio Supreme Court Conclusion:**
 - All the equipment, except the data van, is used in unison to expose the oil and gas, and therefore used directly in the production of oil and gas.

Stingray Pressure Pumping L.L.C. v. Harris

- The Court broke from *Stare Decisis*
- The Court issued an opinion on how Ohio courts should interpret tax law moving forward
 - Court recognized that in the past Ohio courts interpreted tax exemptions against the taxpayer, favoring tax collection.

Stingray Pressure Pumping L.L.C. v. Harris

- **Now . . .**
 - Ohio courts “**will** apply the same rules of construction to tax statutes that [applies] to all other statutes” without a slant toward one side or the other.
 - The Court concluded that its task “is not to make tax policy but to provide a fair reading of what the legislature has enacted: one that is based on the plain language of the [law].”

Stingray Pressure Pumping L.L.C. v. Harris

- Read the Ohio's Supreme Court Opinion:
<https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2023/2023-Ohio-2598.pdf>

Contact Information



Jeff Lewis
Program Coordinator
Income Tax Schools
614-247-1720
lewis.1459@osu.edu

Farm Office Live

Next Webinar:

January 19, 2024

10:00 to 11:30 a.m.



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