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## **Farmland Exempt From Pennsylvania Inheritance Tax**

*By: D. Reed Anderson*

The Pennsylvania Legislature and Governor recently amended the Pennsylvania law relating to Inheritance and Estate Tax. Here is an update on how it could affect you.

Prior to the recent amendment, Pennsylvania's Inheritance and Estate Tax Act provided that children who inherit farmland from their parents were required to pay a 4.5% inheritance tax, and siblings who inherited farmland from their brother or sister had to pay a 12% inheritance tax. House Bill 761, signed into law on June 30, 2012, by Governor Corbett, amended the Inheritance and Estate Tax Act by adding two new subsections.

The first new subsection states that transfers of farmland between "members of the same family" will not be subject to state inheritance tax. "Farmland" is defined as real estate devoted to the business of agricultural. "Members of the same family" include not only children but also spouse, siblings, parents, grandparents, aunts, uncles and cousins, along with any of these individuals' ancestors or lineal descendants. Consequently, the inheritance tax to be imposed upon farmland would only arise if it were to pass to any persons outside the "members of the same family".

This new Act contains requirements that need to be fulfilled.

In order to qualify, the farmland must yield a yearly gross income of at least \$2,000.00. If it does, then it is considered to be real estate devoted to the business of agriculture.

The farmland must continue to be used for the "business of agriculture" for seven years after the transferor's death. This seven year requirement has important implications. If during the seven year period, the farmland ceases to be used for the "business of agriculture", it will then be retroactively subject to the inheritance tax. In addition to the tax to be paid, interest for the timeframe during which no inheritance tax was paid would be incurred.

It requires owners of farmland who qualify for the exemption to annually certify to the Commonwealth of Pennsylvania, Department of Revenue, that it continues to meet the required standards.

The second new subsection provides that a transfer of an agricultural commodity is also exempt from inheritance tax. Consequently, crops in fields, inventory in barns, livestock and other such commodities would also be exempt.

We continue to review the new Act to determine what regulations, if any, the Department of Revenue may establish to enforce requirements. If you have questions, please do not hesitate to contact any member of our agricultural industry group.