

Schedule WV/AG-1

WEST VIRGINIA ENVIRONMENTAL AGRICULTURAL EQUIPMENT TAX CREDIT INFORMATION AND INSTRUCTIONS

These instructions, the general information provided, and the credit form are not a substitute for tax laws and regulations. They are intended to help you claim this tax credit. Specific situations requiring interpretation of the law and regulations should be addressed to the West Virginia State Tax Department.

It is important that West Virginia support the development of agricultural business in this State. At the same time, it is also important to promote environmentally sound practices within the agricultural industry. To do this, the State of West Virginia wants to support the agricultural industry by helping them to recoup the costs of purchasing and installing agricultural equipment and structures for agricultural operations within this state which serve to protect the environment. This is done by providing the Environmental Agricultural Equipment Tax Credit.

For taxable years beginning on or after July 1, 1997, eligible taxpayers purchasing and installing qualified agricultural equipment can claim the Environmental Agricultural Equipment Tax Credit. For calendar year taxpayers, this credit will be available for purchases beginning in tax year 1998. For fiscal year taxpayers, this credit will be available for purchases made during any taxable year beginning on or after July 1, 1997.

ELIGIBLE TAXPAYERS

Eligible taxpayers are those taxpayers purchasing and installing qualified agricultural equipment for use in agricultural operations in this state.

Agricultural operations means only the commercial production of food, fiber, or woodland products (but not timbering activity) by means of cultivation, tillage of soil or by the conduct of animal, livestock, dairy, apiary, equine or poultry husbandry, aquaculture activity, horticulture activity, or any other plant or animal production activity and all farm practices related, usual or incidental to the operations.

Commercial production consists of annual sales by the producer of at least \$1,000 of agricultural product. However, the requirement of annual sales of at least \$1,000 of agricultural products need not be satisfied in order for the activity to be commercial production of an agricultural product in the first 12 months after: (1) the occurrence of a catastrophe (such as fire, drought, or flood), other than mere mechanical breakdowns, which substantially destroyed the agricultural product being produced or the means for harvesting that product, or (2) the commercial producer of an agricultural product has first commenced the production activity.

DEFINITIONS OF QUALIFIED AGRICULTURAL EQUIPMENT AND STRUCTURES

ADVANCED TECHNOLOGY PESTICIDE AND FERTILIZER APPLICATION EQUIPMENT

Machinery certified by the West Virginia Division of Environmental Protection as providing precise pesticide and fertilizer application. This includes, but is not limited to sprayers for pesticides and liquid fertilizers, pneumatic fertilizer applicators, monitors, computer regulators and heights adjustable booms for sprayers and liquid fertilizer applicators, manure applicators, and tramline adapters.

AGRICULTURAL EQUIPMENT AND STRUCTURES THAT QUALIFY FOR THIS CREDIT INCLUDE:

- advanced technology pesticide and fertilizer application equipment
- conservation tillage equipment
- dead poultry composting facilities
- mortality incinerator
- nutrient management systems
- streambank and shoreline protection systems
- stream channel stabilization systems
- stream crossing or access plans
- waste management systems
- waste storage facilities
- waste treatment lagoons

CONSERVATION TILLAGE EQUIPMENT

Planters or drills commonly known as a "no-till" planter or drill designed to minimize disturbance of the soil in planting crops, including such planters or drills which may be attached to equipment already owned by the taxpayer.

DEAD POULTRY COMPOSTING FACILITY

A structure consisting of a roof, an impervious weight bearing foundation, such as concrete and rot resistant building materials such as pressure treated lumber or similar material, and which is used to biologically treat poultry carcasses by composting.

MORTALITY INCINERATOR

A structure certified by the Office of Air Quality which is used for the purpose of burning animal carcasses.

NUTRIENT MANAGEMENT SYSTEM

An established procedure for managing the amount, form, placement, and timing of applications of plant nutrients.

STREAMBANK AND SHORELINE PROTECTION SYSTEM

The consistent use of vegetation or structures to stabilize and protect banks of streams, lakes, estuaries, or excavated channels for one or more of the following purposes:

- (1) To prevent the loss of land or damage to utilities, roads, buildings, or other facilities adjacent to the banks
- (2) To maintain the capacity of the channel
- (3) To control channel meander that would adversely affect downstream facilities
- (4) To reduce sediment loads causing downstream damages and pollution
- (5) To improve the stream for recreation or as a habitat for fish and wildlife

STREAM CHANNEL STABILIZATION SYSTEM

An established structure for the stabilization of the channel of a stream.

STREAM CROSSING OR ACCESS PLAN

The maintenance of a stabilized area to provide for crossing of a stream by livestock and farm machinery, or to provide access to the stream for livestock water.

WASTE MANAGEMENT SYSTEM

A planned system in which all necessary components are installed for managing liquid and solid waste, including runoff from concentrated waste areas at an agricultural operation, in a manner that does not degrade air, soil, or water resources.

WASTE STORAGE FACILITY

A waste impoundment made by constructing an embankment and/or excavating a pit or dugout, or by fabricating a facility for the storage of waste from livestock or poultry.

WASTE TREATMENT LAGOON

An impoundment made by excavation or earthfill for biological treatment of animal or other agricultural waste that is located on or at agricultural operations in this state.

PROOF OF ENTITLEMENT TO CREDIT

In order to use this credit, the taxpayer must submit with the tax credit schedule, adequate proof of entitlement to the credit for each and every item for which credit is claimed. Adequate proof consists of:

Proof of purchase and installation which must be legible, complete and sufficiently specific to clearly identify the item as qualified agricultural equipment and actually purchased and installed by the taxpayer, and

Written certification by the Commissioner of Agriculture that each item purchased is in fact qualified agricultural equipment. For advanced technology pesticide and fertilizer application equipment, the certification is not obtained from the Commissioner of Agriculture, instead the written certification must be obtained in writing from the West Virginia Department of Environmental Protection. For mortality incinerators, the certification is obtained from the Office of Air Quality.

Contact the Commissioner of Agriculture at:
Department of Agriculture
Administrative Services
1900 Kanawha Boulevard, East State
Charleston, WV 25305
304-558-3550

Contact the Office of Air Quality at:
Office of Air Quality
601 57th Street, SE
Charleston, WV 25304
304-926-0475

Contact the Department of Environmental Protection at:
West Virginia Department of Environmental Protection
601 57th Street SE
Charleston, WV 25304
304-926-0440

CLAIMING THE TAX CREDIT

Once the investment in qualified agricultural equipment has been made, the equipment placed into service, and the proper certifications obtained, complete Form WV/AG-1, West Virginia Environmental Agricultural Equipment Tax Credit, to claim this credit.

Corporations can claim against that portion of the corporation net income tax liability that is attributable to agricultural operations in this state.

Individuals can claim the credit against that portion of their personal income tax liability that is attributable to agricultural operations in this state.

Pass-through entities, such as partnerships, S corporations and limited liability companies taxable as partnerships will pass the credit through to the partners, S corporation shareholders, or members based upon their percentage of ownership in the pass-through entity. Subsequent, the **partner, shareholder, or member** can claim the credit against that portion of their personal income tax liability that is attributable to agricultural activity in this state.

AMOUNT OF CREDIT

The credit is equal to 25% of the price of all certified expenditures for qualified agricultural equipment during the taxable year. Expenditures for land do not qualify.

The amount of credit claimed in any one given year may not exceed \$2,500.00 of the total amount of the taxpayer's liability under either the corporation net income tax, personal income tax, or personal income tax attributable to the flow through of income from an S corporation, partnership, or limited liability company that is attributable to agricultural operations in this state.

If the amount of the credit exceeds the tax liability attributable to agricultural activity for the taxable year, the excess amount may be carried over and applied as a credit in each of the next five (5) taxable years unless used sooner. When carrying forward the credit the amount carried forward must be claimed first before claiming any new credit from purchases during the current taxable year.

Credit for any purchase of qualified agricultural equipment may be used by only one business entity, is limited to the tax liability attributable to agricultural operations in this state, cannot exceed the actual amount paid by the taxpayer, and is not available for purchases for resale or for any other purpose other than for use in the taxpayer's own agricultural operation.

FOR ADDITIONAL INFORMATION ABOUT THIS CREDIT CONTACT:

WEST VIRGINIA STATE TAX DEPARTMENT
TAXPAYER SERVICES DIVISION
P.O. BOX 3784
CHARLESTON, WV 25337-3784

(304) 558-3333
1-800-982-8297

TDD FOR THE HEARING IMPAIRED: 1-800-282-9733

INSTRUCTIONS FOR COMPLETING FORM WV/AG-1

Corporations claiming the Environmental Agricultural Equipment Tax Credit must complete Part 1, Part 2, and Part 5 of Form WV/AG-1 to properly claim the credit.

Sole Proprietors must complete Part 1, Part 3, and Part 5 to properly claim the credit.

Shareholders, partners, and members of pass-through entities must work together with the pass-through entity to claim this credit. The pass-through entity must provide the information necessary to complete this form and claim the credit. The pass-through entity must complete or provide the information needed to complete Part 1. The shareholders, partners, and members of pass-through entities then complete Part 4 and Part 5 based upon their individual and separate information.

PART 1 – ELIGIBLE PURCHASES

Enter the date during the current taxable year that each structure or item of qualified agricultural equipment was placed into use or service.

For each item, briefly describe the type of qualified agricultural equipment or structure that has been put into use or service.

Enter the total purchase price of all certified expenditures for the qualified agricultural equipment or structure. Only expenditures made during the current taxable year qualify for the credit.

Attach to the form the appropriate proof of purchase and written certification for each item qualifying for the credit. Forms without the appropriate documentation will result in the denial of the tax credit.

PART 2 – CORPORATIONS

Line 2 When claiming the credit, any unused (excess) credit from any of the preceding five years must be claimed before using any credit generated from purchases made during the current taxable year. Document your excess credit carried forward from previous years by entering the date that the credit was first established in the column titled "Year of Purchase" and by entering the amount of credit carried forward from last year in the appropriate column. For example, the amount entered for the 1st preceding year is the same as the amount entered on line 17 of the form filed last year. Further, the amount to be entered for the 2nd preceding year would be the same amount entered on line 18, column 3, under 1st preceding year on the form filed last year, and so on.

Line 5 Only that portion of your net income tax attributable to agricultural operations in West Virginia can be offset by the credit. Enter the amount of gross income derived from agricultural operations in West Virginia. If the result of your agricultural operations in West Virginia for the current taxable year is a net operating loss, you are not eligible to claim the credit for the current taxable year.

Line 7 Divide line 5 by line 6 and enter the result as a decimal carried to four places. The amount cannot be more than 1.0. If the result of this division is a negative figure, you

have no tax attributable to the agricultural operation in West Virginia for the current taxable year and cannot claim the credit for the current year.

Line 9 If you are eligible to claim other tax credits, you must apply them to your tax liability before applying the Environmental Agricultural Equipment Tax Credit.

Line 16 Transfer this figure to the appropriate line item on Summary Schedule TC that is attached to your corporate net income tax return.

Line 18 For Column 1, enter the same amount as entered on Line 2 for each year. For Column 2, take the amount from line 12 and apply it down the column in the order listed, offsetting the amount(s) shown in Column 1. If the amount from line 12 is fully used against the 5th preceding year, stop. If not, proceed to the next year. Continue in this manner for each of the other years if an amount remains. Complete Column 3, by subtracting the Column 2 amount from the Column 1 amount for each year. These are the amounts that you have available to carry forward to the next taxable year. Any excess amount from the 5th preceding year is forfeited.

PART 3 – SOLE PROPRIETORS

Line 2 When claiming the credit, any unused (excess) credit from any of the preceding five years must be claimed before using any credit generated from purchases made during the current taxable year. Document your excess credit carried forward from previous years by entering the date that the credit was first established in the column titled "Year of Purchase" and by entering the amount of credit carried forward from last year in the appropriate column. For example, the amount entered for the 1st preceding year is the same as the amount entered on line 17 of the form filed last year. Further, the amount to be entered for the 2nd preceding year would be the same amount entered on line 18, column 3, under 1st preceding year on the form filed last year, and so on.

Line 5 Only that portion of your personal income tax attributable to agricultural operations in West Virginia can be offset by the credit. Enter the amount of your federal adjusted gross income (AGI) that is derived from agricultural operations in West Virginia. If the result of your agricultural operations in West Virginia for the current taxable year is a net operating loss, you are not eligible to claim the credit for the current taxable year.

Line 7 Divide line 5 by line 6 and enter the result as a decimal carried to four places. This amount cannot be more than 1.0. If the result of this division is a negative figure, you have no tax attributable to the agricultural operation in West Virginia for the current taxable year and cannot claim the credit for the current year.

Line 9 If you are eligible to claim other tax credits, you must apply them to your tax liability before applying the Environmental Agricultural Equipment Tax Credit. This is true for all other credits except the Capital

Company Credit. The Capital Company Credit would be calculated after applying all other credits, including the Environmental Agricultural Equipment Tax Credit.

Line 16 Transfer this figure to the appropriate line item on your personal income tax return.

Line 18 For Column 1, enter the same amount as entered on Line 2 for each year. For Column 2, take the amount from line 12 and apply it down the column in order listed, offsetting the amount(s) shown in Column 1. If the amount from line 12 is fully used against the 5th preceding year, stop. If not, proceed to the next year. Continue in this manner for each of the other years if an amount remains. Complete Column 3, by subtracting the Column 2 amount from the Column 1 amount for each year. These are the amounts that you have available to carry forward to the next taxable year. Any excess amount from the 5th preceding year is forfeited.

PART 4 – PARTNERS, SHAREHOLDERS, AND MEMBERS OF PASS-THROUGH ENTITIES

NOTE: The amount entered in Part 1 should be for the entire pass-through entity. The pass-through entity must disclose this information to their partners, shareholders, or members as the case may be and provide them with copies of the written certification of qualification and proof of purchase and installation.

Line 3 The amount entered on line 1 represented the credit available at the pass-through entities level. The calculation on lines 2 and 3 allocate the credit to the shareholder, partner, or member.

Line 4 When claiming the credit, any unused (excess) credit from any of the preceding five years must be claimed before using any credit generated from purchases made during the current taxable year. Document your excess credit carried forward from previous years by entering the date that the credit was first established in the column titled “Year of Purchase” and by entering the amount of credit carried forward from last year in the appropriate column. For example, the amount entered for the 1st preceding year is the same as the amount entered on line 17 of the form filed last year. Further, the amount to be entered for the 2nd preceding year would be the same amount entered on line 18, column 3, under 1st preceding year on the form filed last year, and so on.

Line 6 Enter your distributive share from the pass-through entity creating the credit. Only that portion of your distributive share from the pass-through entity attributable to the agricultural operations of the pass-through entity in West Virginia can be used as a basis for calculating the credit. If your distributive share from the pass-through entity for the current taxable year is a net operating loss, you are not eligible to claim the credit for the current taxable year.

Line 7 Enter the total West Virginia agricultural income of the pass-through entity. This information must be obtained

from and provided by the pass-through entity. Pass-through entities making qualified investments resulting in this credit must provide this information to their shareholders, partners, and members.

Line 8 Enter the total income of the pass-through entity. This information must be obtained from and provided by the pass-through entity. Pass-through entities making qualified investments resulting in this credit must provide this information to their shareholders, partners, and members.

Line 11 You must further reduce your distributive share resulting from the West Virginia agricultural operations of the pass-through entity creating this credit by determining how much of it is actually reported on your federal income tax return. If the amount of the distributive share from the pass-through entity actually reported on your federal income tax return is zero or less, you are not eligible to claim the credit for the current taxable year. Enter the amount of your distributive share from the pass-through entity that is actually reported on your federal income tax return.

Line 15 Divide line 14 by line 15 and enter the result as a decimal carried to four places. This amount cannot be more than 1.0. If the result of this division is a negative figure, you have no tax attributable to the agricultural operation in West Virginia for the current taxable year and cannot claim the credit for the current year.

Line 17 This is the amount of your income tax liability that is attributable to the pass-through entity’s agricultural operations in West Virginia.

Line 18 If you are eligible to claim other tax credits, you must apply them to your tax liability before applying the Environmental Agricultural Equipment Tax Credit.

Line 25 Transfer this figure to the appropriate line item on your personal income tax return.

Line 27 For Column 1, enter the same amount as entered on Line 2 for each year. For Column 2, take the amount from line 21 and apply it down the column in the order listed, offsetting the amount(s) shown in Column 1. If the amount from line 21 is fully used against the 5th preceding year, stop. If not, proceed to the next year. Continue in this manner for each of the other years if an amount remains. Complete Column 3 by subtracting the Column 2 amount from the Column 1 amount for each year. These are the amounts that you have available to carry forward to the next taxable year. Any excess amount from the 5th preceding year is forfeited.

PART 5 – CERTIFICATION/SIGNATURE

The credit schedule must be certified by the taxpayer. Any person authorized by the taxpayer to make and file tax returns may sign this form. The signer should carefully read the certification and review the form and attachments for correctness, completion, and veracity. An unsigned credit schedule will result in the denial of the credit.