

determination by the Secretary of the Treasury, that payments made under these conservation programs do not substantially increase the annual income derived from the property benefitting by these payments, this determination permits payment recipients to exclude from gross income, for Federal income tax purposes, all or part of such cost-share payments made under said program.

Signed at Washington, DC on August 21, 1996.

Dan Glickman,
Secretary of Agriculture.

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Skaneateles Lake Watershed Agricultural Program; Determination of Primary Purpose of Program Payments for Consideration as Excludable From Income Under Section 126 of the Internal Revenue Code of 1954

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of determination.

SUMMARY: The Secretary of Agriculture has determined that all payments for implementation of best management practices made to individuals by the City of Syracuse under the Skaneateles Lake Watershed Agricultural Program ("SLWAP") are made primarily for the purpose of conserving soil and water resources and protecting or restoring the environment. This determination is made in accordance with Section 126 of the Internal Revenue Code of 1954, as amended, 26 U.S.C. 126. This determination permits recipients of these payments for implementation of best management practices to exclude them from gross income to the extent allowed by the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Lee Neville, Watershed Control Coordinator, City of Syracuse Department of Water, 101 N. Beech St., Syracuse, NY 13210, (315) 473-2609 or Director, Land Treatment Program Division, Soil Conservation Service, USDA, P.O. Box 2890, Washington, DC 20013, (202) 720-1870.

SUPPLEMENTARY INFORMATION: Section 126 of the Internal Revenue Code of 1954, as amended, 26 U.S.C. 126, provides that certain payments made to persons under state conservation programs may be excluded from the recipients' gross income for Federal income tax purposes, if the Secretary of Agriculture determines that payments are made "primarily for the purpose of

conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife." The Secretary of Agriculture evaluates the conservation programs on the basis of criteria set forth in 7 CFR Part 14, and makes a "primary purpose" determination for the payments made under each program. Before there may be an exclusion, the Secretary of the Treasury must determine that payments made under these conservation programs do not substantially increase the annual income derived from the property benefited by the payments.

The City of Syracuse is authorized by Article 11 of the New York State Public Health Law and 10 New York Code of Rules and Regulations (NYCRR) part 131.1 to regulate and protect the Skaneateles Lake Watershed. Skaneateles Lake is the City's prime source of drinking water. It provides an average of 45 million gallons per day to 200,000 people. The City has been able to avoid the filtration mandate of the Federal Safe Drinking Water Act by successfully implementing a watershed protection program in accordance with 40 CFR § 141.71. Filtration avoidance is considered the proper option for the city to pursue because of the high quality of Skaneateles Lake Water and the City's belief that water quality should be maintained at the source and not through the imposition of a chemical treatment process. One of the City of Syracuse's water quality improvement programs establishes Best Management Practices (BMPs) for agricultural operations, especially dairy farms, in the Skaneateles Lake Watershed. The program is set forth and authorized pursuant to City of Syracuse Ordinances #1994-93, #1994-442, #1995-383, and #1995-392. The City of Syracuse has jurisdiction over the Skaneateles Lake Watershed pursuant to 10 NYCRR § 131.1. The City's Watershed agricultural program is designed, following the model set forth by New York City, to protect the Lake from non-point source pollution while at the same time maintaining the economic viability of agriculture in the watershed. Agriculture is believed to be the best land use for the long term environmental health of the Lake's watershed. The Program uses a "whole farm planning"/best management practices approach to watershed protection. Payments to farmers participating in the Program for which the Section 126 exclusion is sought will be made for implementation of best management practices which further the

water quality goals of the Program. The exclusion would not apply to incentive payments to farmers to be made under the Program to encourage assistance in preparation of whole farm plans and participation in demonstration field days or farm tours.

Procedural Matters

The authorizing legislation, regulations, and operating procedures regarding the Skaneateles Lake Watershed Agricultural Program have been examined using the criteria set forth in 7 CFR Part 14. The Department of Agriculture has concluded that the payments made for implementation of best management practices under this program are made to provide financial assistance to eligible persons primarily for the purpose of conserving soil and water resources and protecting or restoring the environment.

A "Record of Decision, Skaneateles Lake Watershed Agricultural Program, Primary Purpose Determination for Federal Tax Purpose" has been prepared and is available upon request from the Director, Land Treatment Program Division, Soil Conservation Service, P.O. Box 2890, Washington, DC 20013, or from the Watershed Program Coordinator, City of Syracuse Department of Water, 101 N. Beech St., Syracuse NY 13210.

Determination

As required by Section 126(b) of the Internal Revenue Code of 1954, as amended, I have examined the authorizing legislation, regulations, and operating procedures regarding the Skaneateles Lake Watershed Agricultural Program. In accordance with the criteria set out in 7 CFR Part 14, I have determined that all payments for the implementation of best management practices made under this program are primarily for the purpose of conserving soil and water resources and protecting or restoring the environment. Subject to further determination by the Secretary of the Treasury, this determination permits payment recipients to exclude from gross income, for Federal income tax purposes, all or part of such payments for implementation of best management practices made under said program.

Dan Glickman,
Secretary.

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