

# Adams Co. Family Share Feelings About Stock Tax Exemption For Farmers

**Editors Note:** The interpretation of the state farm capital stock tax laws often seem to cause a problem. Lancaster Farming's Adams County staff correspondent, Ginger Secrist Myers, talked this week with a farm family who has this problem. While the farm family set up corporations to provide an orderly transfer of the farming business on to the next generation, IRS has not yet agreed on the stock tax exempt status of the corporation. Here's the story of their experience.

BY GINGER SECRIST MYERS  
Staff Correspondent

**YORK SPRINGS** — "We're a family farm. The question of the operations of the Peters Orchard Company and John B. Peters, Inc. is simply a matter of how we chose to run our business . . . Our corporations were set up to be a generation transfer mechanism, not to evade any taxes. It centralizes our operation and keeps the operation in one hand." So states George M. Peters, one of the owners and operators of Peters' Orchards, Adams County.

The Peters family and their attorneys are scheduled to appear before the PA Supreme Court on a suit concerning the Peters' filing for an exemption from the Capital Stock Tax as it applies to family farm corporations. The Peters family has been on this arduous path with the PA Department of Revenue since 1981 when they filed for the exemption under House Bill 567.

PA House Bill 567 allows for the exemption of family farm cor-

porations from paying Capital Stock Tax if the corporation has at least seventy-five percent of its assets devoted to the business of agriculture and if at least seventy-five percent of its stock is owned by members of the same family. The term "Business of Agriculture" specifically excludes (1) recreational activities such as hunting, fishing, camping, skiing, show competition or racing, (2) raising, breeding, or training game animals, birds, fish, cats, dogs, pets, or animals intended for use in sporting or recreational activities, (3) fur farming, (4) stockyard and slaughter house operations or, (5) manufacturing or processing of any kind.

The Peters family certainly qualifies under the ownership clause. All restricted stock in their corporations are owned by family members. The Peters Orchard Company owns 2500 acres of orchard land and equipment. John B. Peters, Inc. has an operating budget of roughly \$3 million annually in the production and sales of a variety of fruit from that land.

Patriarch John B. Peters and his wife Mary E. K. founded the Peters Orchard Company in 1960. At that time, they were only working with their son John F. Peters. Due to failing health, John B. no longer wanted to be actively involved in the day to day operations of the orchard; but, wanted an orderly way to move his son John F. and three other sons and two daughters into the operation. At that time, all the family's real estate was incorporated under the name Peters

Orchard Company. By 1966, after both parents and all their children had become involved in the first corporation, the family saw a need to facilitate the entrance of a third generation into the business. The John B. Peters corporation was formed for this purpose. This corporation operates the farm, leasing the assets from the first. George Peters notes that this arrangement allows another family member to come into the business and see if they like the work without a capital outlay for real estate and equipment. It also allows for the continued involvement of the older Peters' with their real estate assets. Both corporations are actively involved in the operations of the orchards.

Stated Peters, "This is all done with individual investor money. It's been advantageous in these difficult fiscal times to have been able to retain money within our family. If we had had to go to the bank and borrow money in these existing economic times, we'd be just like everybody else with a lot of credit out. Just to say that families can't own jointly just because its not widely done isn't to say that everyone involved in this business doesn't have an active interest or that it shouldn't be done."

From the time of incorporation and until the tax reform code of 1981 was passed that exempted family farm corporations from paying Capital Stock Tax, the Peters' paid their corporate taxes. In 1981, when they filed for an exemption it was denied by the PA Department of Revenue. The

Peters filed an appeal and lost. They then filed an appeal with the Commonwealth Court and were again denied the exemption.

In this action, the court perceived that the Peters Orchard Company was only a leasing company and was involved only passively with the operation and the John B. Peters, Inc. was an active corporation involved in the "business of agriculture". The Court agreed with the Peters' view that the legislative intent behind the exemption is to preserve farmland by alleviating one of the tax burdens that often force farm families to sell their farmland, but it did not agree with the Peters' claim that their exemption would be consistent with that intent. The Court ruled that a corporation that leases its assets to another entity which is actually doing the production is not entitled to the exemption.

In the context of this ruling, George Peters summarizes that the law cannot dictate the preservation of the family farm. He feels that it is a combination of

the interpretation of the law and the strength of the economy that will dictate how the farmer will survive. He feels the attorneys view their case from the position of tax impact; the Peters' view their case as to how they will be able to bring their next generation into farming.

The next stop on the agenda for this case is the PA State Supreme Court. Briefs have been filed by both parties and they are awaiting a hearing date. PFA has filed an Amicus Curiae (friend of the court) brief in this case. PFA was instrumental in the passage of the statute and feels it has information that would be beneficial to the court on its decision of intent.

George Peters concluded, "We're willing to take a stand on this. We have the guts to fight it. It's clear to us that the court so clearly mis-interpreted both the intent of the law and our application of it. We feel it's worth the struggle. We're fighting for the preservation of exactly what people call the 'family farm'."

## Egg Association slates meeting

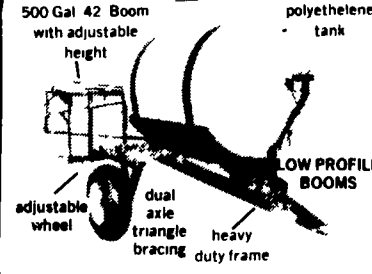
LANCASTER — Richard Grubb, Pennsylvania Secretary of Agriculture, will be the featured speaker at the Pennsylvania Egg Marketing Association's dinner meeting on Friday, May 9.

He will discuss the Department of Agriculture's commitment to

the poultry industry in Pennsylvania.

This meeting, to be held at the Old Hickory Inn, Lancaster, is part of the continuing celebration of May being declared Egg Month. Reservations can be made by calling R. W. Sauder at 626-2074.

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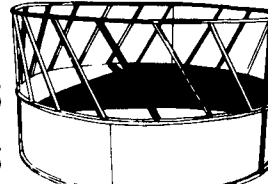
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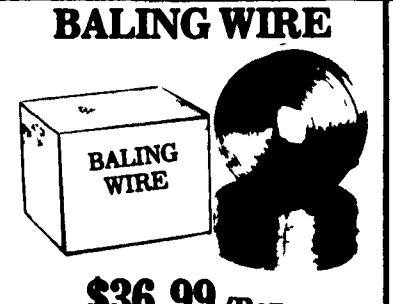
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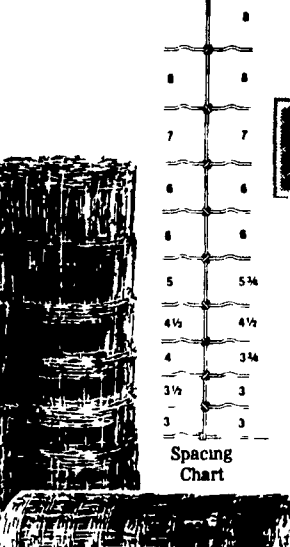


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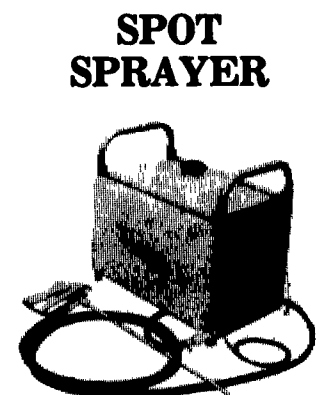
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