

Navigating Intellectual Property on the Modern Farm

Roger McEowen (roger.mceowen@washburn.edu) – Washburn University School of Law

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Overview

The agricultural landscape is undergoing a digital and biological revolution. Whether it's a new drought-resistant hybrid, a proprietary algorithm for precision planting, or the "Big Data" harvested by a fleet of autonomous combines, Intellectual Property (IP) has become the silent engine of the modern farm.

However, from a legal and tax perspective, IP is often misunderstood. For many producers, this leads to missed tax deductions or - even worse - unintended tax hits when it's time to sell. Here is what you need to know to protect your innovations and your bottom line in 2026.

The Return of the "Instant Deduction" (OBBBA)

For the past few years, ag-tech startups and innovative farmers faced a cash-flow hurdle: they had to spread out their research and development (R&D) tax deductions over five years.

Thanks to the One Big Beautiful Bill Act (OBBBA), the rules have shifted back in favor of the innovator:

- **Full Expensing is Back:** For tax years starting after December 31, 2024, you can once again fully deduct domestic R&D costs in the year you spend the money.
- **Catch-up Relief:** If you had unamortized costs from the "limbo years" (2022–2024), the OBBBA provides ways to claim those deductions now.

Note: This only applies to domestic R&D. If you are sourcing your tech or research from overseas, you are still stuck with a 15-year wait to fully deduct those costs.

Documentation is King: Lessons from the Tax Court

While deducting expenses is great, the R&D Tax Credit provides an actual credit against taxes owed. But a recent 2026 court case (*George v. Commissioner*) serves as a warning: you can't just claim a credit for "routine farming."

To qualify for the credit, your activity must:

1. Be rooted in hard sciences (biology, chemistry, or engineering).
2. Involve a process of experimentation intended to eliminate uncertainty.

If you are testing a custom software interface for autonomous equipment or a new biological soil amendment, keep records of your failures. The court wants to see the scientific process, not just the final result.



Seeds and Patents: Why You Can't Always "Save Seed"

Farmers often ask about the "right to save seed." The answer depends on which legal shield protects the plant:

Protection Type	Can You Save Seed?	Common Use
PVPA (Plant Variety Protection Act)	Yes (Limited)	Traditional varieties; allows planting on your own acreage.
Utility Patents	No	Most modern "traited" seeds (e.g., herbicide resistance).

The Tax "Narrow Gate"

If you invent a new tool or plant variety and sell the patent, you might qualify for long-term Capital Gain (LTCG) treatment—which means a lower tax rate. However, this is a "narrow gate":

- **Individuals Only:** Corporations and S-Corps cannot access this specific fast-track to capital gains.
- **The Related Party Trap:** If you sell your patent to a family-owned entity where you own 25% or more, you lose the tax advantage. The IRS sees this as selling to yourself.

Agricultural Data: The Invisible Asset

Who owns the yield maps and soil health records? The landowner? The tenant? The equipment manufacturer? In 2026, **Ag Data** is increasingly treated like a trade secret.

- **If you buy a farm:** The data that comes with it is an "intangible asset." You can usually write off (amortize) the cost of that data over 15 years.
- **If you create the data:** You cannot "write off" the value of your own data, but it still has immense value during a sale.

Observation: Don't rely on handshake deals for digital assets. Ensure your lease or purchase agreements include a Data Use Agreement (DUA) to clarify who owns the digital footprint of the land.

Your 2026 Strategy

To ensure you are being rewarded—rather than penalized—for your innovation, take these three steps:

1. **Audit Your R&D:** Separate your routine production costs from your "experimentation" costs to maximize your OBBBA deductions.



2. **Check Your Entity Structure:** If you're developing IP, talk to a pro before incorporating. Moving IP into a corporation can sometimes "lock" your tax benefits.
3. **Formalize Data Ownership:** Whether you are a landlord or a tenant, define who owns the yield and soil data in writing.

Intellectual property isn't just for Silicon Valley anymore; it's a "farm gate" issue. By staying ahead of these legal shifts, you protect the future of your operation.

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K-State Agricultural Economics | 342 Waters Hall, Manhattan, KS 66506-4011 | www.ageconomics.k-state.edu

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