

## 9H.1 Definitions.

For the purposes of this chapter:

1. *"Actively engaged in farming"* means that a natural person who is a shareholder and an officer, director or employee of the corporation or who is a member or manager of the limited liability company either:
  - a. Inspects the production activities periodically and furnishes at least half of the value of the tools and pays at least half the direct cost of production; or
  - b. Regularly and frequently makes or takes an important part in making management decisions substantially contributing to or affecting the success of the farm operation; or
  - c. Performs physical work which significantly contributes to crop or livestock production.
2. *"Agricultural land"* means land suitable for use in farming.
3. *"Authorized farm corporation"* means a corporation other than a family farm corporation founded for the purpose of farming and the ownership of agricultural land in which:
  - a. The stockholders do not exceed twenty-five in number; and
  - b. The stockholders are all natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or nonprofit corporations.
4. *"Authorized limited liability company"* means a limited liability company other than a family farm limited liability company founded for the purpose of farming and the ownership of agricultural land in which all of the following apply:
  - a. The members do not exceed twenty-five in number.
  - b. The members are all natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or nonprofit corporations.
5. *"Authorized trust"* means a trust other than a family trust in which:
  - a. The beneficiaries do not exceed twenty-five in number; and
  - b. The beneficiaries are all natural persons, who are not acting as a trustee or in a similar capacity for a trust as defined in subsection 22 of this section, or persons acting in a fiduciary capacity, or nonprofit corporations; and
  - c. Its income is not exempt from taxation under the laws of either the United States or the state of Iowa.
6. *"Beneficial ownership"* includes interests held by a nonresident alien individual directly or indirectly holding or acquiring a ten percent or greater share in the partnership, limited partnership, corporation, limited liability company, or trust, or directly or indirectly through two or more such entities. In addition, the term beneficial ownership shall include interests held by all nonresident alien individuals if the nonresident alien individuals in the aggregate directly or indirectly hold or acquire twenty-five percent or more of the partnership, limited partnership, corporation, limited liability company, or trust.
7. *"Corporation"* means a domestic or foreign corporation subject to chapter 490, a nonprofit corporation, or a cooperative.

8. "*Family farm corporation*" means a corporation:

- a. Founded for the purpose of farming and the ownership of agricultural land in which the majority of the voting stock is held by and the majority of the stockholders are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related;
- b. All of its stockholders are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or family trusts as defined in subsection 11 of this section; and
- c. Sixty percent of the gross revenues of the corporation over the last consecutive three-year period comes from farming.

9. "*Family farm limited liability company*" means a limited liability company which meets all of the following conditions:

- a. The limited liability company is founded for the purpose of farming and the ownership of agricultural land in which the majority of the members are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related.
- b. All of the members of the limited liability company are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or family trusts.
- c. Sixty percent of the gross revenues of the limited liability company over the last consecutive three-year period comes from farming.

10. "*Family farm limited partnership*" means a limited partnership which meets all of the following conditions:

- a. The limited partnership is formed for the purpose of farming and the ownership of agricultural land in which the general partner and a majority of the partnership interest is held by and the majority of limited partners are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related.
- b. The general partner manages and supervises the day-to-day farming operations on the agricultural land.
- c. All of the limited partners are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or family trusts.
- d. Sixty percent of the gross revenues of the partnership over the last consecutive three-year period come from farming.

11. "*Family trust*" means a trust:

- a. In which a majority interest in the trust is held by and the majority of the beneficiaries are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related; and
- b. In which all the beneficiaries are natural persons, who are not acting as a trustee or in a similar capacity for

a trust, as defined in subsection 22 of this section, or persons acting in a fiduciary capacity, or nonprofit corporations; and

c. If the trust is established on or after July 1, 1988, the trust must be established for the purpose of farming and sixty percent of the gross revenues of the trust over the last consecutive three-year period must come from farming.

12. "*Farming*" means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing or the production of livestock. Farming shall not include the production of timber, forest products, nursery products, or sod and farming shall not include a contract where a processor or distributor of farm products or supplies provides spraying, harvesting or other farm services.

13. "*Fiduciary capacity*" means an undertaking to act as executor, administrator, personal representative, guardian, conservator or receiver.

14. "*Grantor*" means a natural person, other than a nonresident alien as defined under this section, who is the creator of a revocable trust or a trust.

15. "*Indirect*" means to act or attempt to accomplish an act through an interest in a business association, through one or more affiliates or intermediaries, or by any method other than a direct approach, including by any circuitous or oblique method.

16. "*Limited liability company*" means a limited liability company as defined in section 490A.102.

17. "*Limited partnership*" means a limited partnership as defined in section 487.101 or 488.102, or a limited liability limited partnership under section 487.1301 or chapter 488, which owns or leases agricultural land or is engaged in farming.

18. "*Nonprofit corporation*" means:

a. Corporations organized under the provisions of chapter 504, Code 1989, or current chapter 504 or 504A; or

b. Corporations which qualify under Title 26, section 501(c)(3) of the United States Code.

19. "*Nonresident alien*" means:

a. An individual who is not a citizen of the United States and who is not domiciled in the United States.

b. A corporation incorporated under the law of any foreign country.

c. A corporation organized in the United States, beneficial ownership of which is held, directly or indirectly, by nonresident alien individuals.

d. A trust organized in the United States or elsewhere if beneficial ownership is held, directly or indirectly, by nonresident alien individuals.

e. A partnership or limited partnership organized in the United States or elsewhere if beneficial ownership is held, directly or indirectly, by nonresident alien individuals.

f. A limited liability company organized in the United States or elsewhere, beneficial ownership of which is held, directly or indirectly, by nonresident alien individuals.

20. "*Revocable trust*" means a trust which provides that the grantor retains the power to amend, modify, or revoke the trust at any time prior to the death of the grantor, regardless of whether, subsequent to the execution of the revocable trust and at any time prior to death, the grantor is legally competent to exercise the power to amend, modify, or revoke the trust and regardless of when the trust is created.

21. "*Testamentary trust*" means a trust created by devising or bequeathing property in trust in a will as such terms are used in the Iowa probate code as provided in chapter 633. Testamentary trust includes a revocable trust that has not been revoked prior to the grantor's death.

22. "*Trust*" means a fiduciary relationship with respect to property, subjecting the person by whom the property is held to equitable duties to deal with the property for the benefit of another person, which arises as a result of a manifestation of an intention to create it. Trust does not include a person acting in a fiduciary capacity, as defined in subsection 13, or a revocable trust. A trust includes a legal entity holding property as trustee, agent, escrow agent, attorney in fact, and in any similar capacity.

[C77, 79, 81, § 172C.1; 82 Acts, ch 1103, § 1108]

84 Acts, ch 1219, § 6; 88 Acts, ch 1191, § 1, 2; 91 Acts, ch 172, § 2; 92 Acts, ch 1151, § 24

C93, § 9H.1

93 Acts, ch 39, §14; 94 Acts, ch 1153, §13; 99 Acts, ch 169, § 1; 2000 Acts, ch 1024, §1; 2000 Acts, ch 1048, §1, 3; 2002 Acts, ch 1095, §13, 1012; 2003 Acts, ch 108, § 1, 2; 2003 Acts, ch 115, § 11, 16, 19; 2004 Acts, ch 1175, §350, 394, 400

Former subsections 6, 813, 22, 2729, 31, and 32 transferred to §202B.102 in Code Supplement 2003 pursuant to directive in 2003 Acts, ch 115, §16, 19

New subsection 26A, enacted in 2003 Acts, ch 115, §1, transferred to §202B.102 in Code Supplement 2003 pursuant to directive in 2003 Acts, ch 115, §16, 19

2004 amendments to subsections 17 and 18 take effect January 1, 2005; 2004 Acts, ch 1175, §350, 394, 400

Reference to chapter 504A in subsection 18 to be deleted editorially upon repeal of that chapter; 2004 Acts, ch 1049, §191

For future amendment to this section effective January 1, 2006, see 2004 Acts, ch 1175, §351, 400