

## FAMILY FARM TAX CREDIT

### **425A.1 Family farm tax credit fund.**

The family farm tax credit fund is created in the office of the treasurer of state. There shall be transferred annually to the fund the first ten million dollars of the amount annually appropriated to the agricultural land credit fund, provided in section 426.1. Any balance in the fund on June 30 shall revert to the general fund.

90 Acts, ch 1250, §10; 93 Acts, ch 180, §10

### **425A.2 Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "*Actively engaged in farming*" means the designated person is personally involved in the production of crops and livestock on the eligible tract on a regular, continuous, and substantial basis. However, a lessor, whether under a cash or a crop share lease, is not actively engaged in farming on the area of the tract covered by the lease. This provision applies to both written and oral leases.
2. "*Agricultural land*" means land in tracts of ten acres or more excluding any buildings or other structures located on the land, and not laid off into lots of less than ten acres or divided by streets and alleys into parcels of less than ten acres, lying within a school corporation and in good faith used for agricultural or horticultural purposes. Any land in tracts laid off or platted into lots of less than ten acres belonging to and a part of other lands of more than ten acres and in good faith used for agricultural or horticultural purposes is entitled to the benefits of this chapter.
3. "*Crop*" or "*crop production*" includes pastureland.
4. "*Designated person*" means one of the following:
  - a. If the owner is an individual, the designated person includes the owner of the tract, the owner's spouse, the owner's child or stepchild, and their spouses, or the owner's relative within the third degree of consanguinity, and the relative's spouse.
  - b. If the owner is a partnership, a partner, or the partner's spouse.
  - c. If the owner is a family farm corporation, a family member who is a shareholder of the family farm corporation or the shareholder's spouse.
  - d. If the owner is an authorized farm corporation, a shareholder who owns at least fifty-one percent of the stock of the authorized farm corporation or the shareholder's spouse.
  - e. If the owner is an individual who leases the tract to a family farm corporation, a shareholder of the corporation if the combined stock of the family farm corporation owned by the owner of the tract and persons related to the owner as enumerated in paragraph "a" is equal to at least fifty-one percent of the stock of the family farm corporation.
  - f. If the owner is an individual who leases the tract to a partnership, a partner if the combined partnership interest owned by a designated person as defined in paragraph "a" is equal to at least fifty-one percent of the ownership interest of the partnership.
5. "*Eligible tract*" or "*eligible tract of agricultural land*" means an area of agricultural land which meets all of the following:

- a. Is comprised of all of the contiguous tracts under identical legal ownership that are located within the same county.
- b. In the aggregate more than half the acres of the contiguous tract is devoted to the production of crops or livestock by a designated person who is actively engaged in farming.
- c. For purposes of paragraph "b", if some or all of the contiguous tract is being farmed under a lease arrangement, the activities of the lessor do not constitute being actively engaged in farming on the areas of the tract covered by the lease. If the lessee is a designated person who is actively engaged in farming, the acres under lease may be considered in determining whether more than half the acres of the contiguous tract are devoted to the production of crops or livestock.

6. "Owner" means any of the following:

- a. An individual who holds the fee simple title to the agricultural land.
- b. An individual who owns the agricultural land under a contract of purchase which has been recorded in the office of the county recorder of the county in which the agricultural land is located.
- c. An individual who owns the agricultural land under devise or by operation of the inheritance laws, where the whole interest passes or where the divided interest is shared only by individuals related or formerly related to each other by blood, marriage, or adoption.
- d. An individual who owns the agricultural land under a deed which conveys a divided interest, where the divided interest is shared only by individuals related or formerly related to each other by blood, marriage, or adoption.
- e. A partnership where all partners are related or formerly related to each other by blood, marriage, or adoption.
- f. A family farm corporation or authorized farm corporation, as both are defined in section 9H.1, which owns the agricultural land.

90 Acts, ch 1250, §11; 91 Acts, ch 267, §609611; 96 Acts, ch 1198, § 1, 2

### **425A.3 Where credit given.**

1. The family farm tax credit fund shall be apportioned each year in the manner provided in this chapter so as to give a credit against the tax on each eligible tract of agricultural land within the several school districts of the state in which the levy for the general school fund exceeds five dollars and forty cents per thousand dollars of assessed value. The amount of the credit on each eligible tract of agricultural land shall be the amount the tax levied for the general school fund exceeds the amount of tax which would be levied on each eligible tract of agricultural land were the levy for the general school fund five dollars and forty cents per thousand dollars of assessed value for the previous year. However, in the case of a deficiency in the family farm tax credit fund to pay the credits in full, the credit on each eligible tract of agricultural land in the state shall be proportionate and applied as provided in this chapter.
2. An eligible tract of agricultural land qualifies for the credit computed under subsection 1 if the tract is owned by an owner as defined in section 425A.2 and a designated person is actively engaged in farming during the fiscal year preceding the fiscal year in which the auditor computes the amount of the credit under

section 425A.5 for which the tract would be eligible. Notwithstanding the foregoing sentence, the "*actively engaged in farming*" requirement is satisfied if the designated person is in general control of the tract under a federal program pertaining to agricultural land.

3. The county board of supervisors shall determine the eligibility of each tract for which an application is received.

90 Acts, ch 1250, §12; 91 Acts, ch 267, §612, 613

#### **425A.4 Claim for credit.**

1. To apply for the credit, the person shall deliver to the county assessor a verified statement and designation of the tracts of agricultural land for which the credit is claimed. The assessor shall return the statement and designation on or before November 15 of each year to the county board of supervisors with a recommendation for allowance or disallowance. A claim for credit filed after November 1 of the year shall be considered as a claim filed for the following year.

2. The county board of supervisors in each county shall examine all claims delivered to county assessors, and shall either allow or disallow the claims, and if disallowed shall send notice of disallowance by regular mail to the claimant at the claimant's last known address. The claimant may appeal the decision of the board to the district court in which the tract for which the credit is claimed is situated by giving written notice of the appeal to the county board of supervisors within twenty days from the date of the mailing of the notice of the decision of the board of supervisors.

3. Upon the filing and allowance of the claim, the claim shall be allowed on that tract for successive years without further filing as long as the property is legally or equitably owned by that person or that person's spouse on July 1 of each of those successive years, and the designated person who is actively engaged in farming remains the same during these years. When the property is sold or transferred, the buyer or transferee who wishes to qualify shall file for the credit. However, when the property is transferred as part of a distribution made pursuant to chapter 598, the transferee who is the spouse retaining ownership of the property is not required to file for the credit. In the case where the owner remains the same but the person who is actively engaged in farming changes, the owner shall refile for the credit. The owner shall provide written notice if the person actively engaged in farming changes.

4. The assessor shall retain a permanent file of current family farm credit claims filed in the assessor's office.

The county recorder shall give notice to the assessor of each transfer of title filed in the recorder's office. The notice shall describe the tract of agricultural land transferred, the name of the person transferring the title to the tract, and the name of the person to whom title to the tract has been transferred.

90 Acts, ch 1250, §13; 91 Acts, ch 97, §51; 91 Acts, ch 267, §614, 615; 2001 Acts, ch 154, §2, 3, 6

2001 amendments apply to family farm tax credit claims filed on or after July 1, 2001; 2001 Acts, ch 154, §6

#### **425A.5 Computation by county auditor.**

The family farm tax credit allowed each year shall be computed as follows: On or before April 1, the county auditor shall list by school districts all tracts of agricultural land which are entitled to credit, the taxable value for the previous year, the budget from each school district for the previous year, and the tax rate determined for the general fund of the school district in the manner prescribed in section 444.3 for the previous year, and if the tax rate is in excess of five dollars and forty cents per thousand dollars of assessed value, the auditor shall multiply the tax levy which is in excess of five dollars and forty cents per thousand dollars of assessed value by the total taxable value of the agricultural land entitled to credit in the school district, and on or

before April 1, certify the total amount of credit and the total number of acres entitled to the credit to the department of revenue.

90 Acts, ch 1250, §14; 91 Acts, ch 267, §616; 2001 Acts, ch 143, §2; 2003 Acts, ch 145, §286

#### **425A.6 Warrants authorized by director proration.**

After receiving from the county auditors the certifications provided for in section 425A.5, and during the following fiscal year, the director of revenue shall authorize the department of administrative services to draw warrants on the family farm tax credit fund created in section 425A.1, payable to the county treasurers in the amount certified by the county auditors of the respective counties and mail the warrants to the county auditors on June 1 of each year taking into consideration the relative budget and cash position of the state resources. However, if the family farm tax credit fund is insufficient to pay in full the total of the amounts certified to the director of revenue, the director shall prorate the fund to the county treasurers and shall notify the county auditors of the pro rata percentage on or before June 1.

90 Acts, ch 1250, §15; 91 Acts, ch 267, §617; 2003 Acts, ch 145, §286; 2004 Acts, ch 1101, §50

#### **425A.7 Apportionment by auditor.**

Upon receiving the pro rata percentage from the director of revenue, the county auditor shall determine the amount to be credited to each tract of agricultural land, and shall enter upon tax lists as a credit against the tax levied on each tract of agricultural land on which there has been made an allowance of credit before delivering the tax lists to the county treasurer. Upon receipt of the warrant by the county auditor, the auditor shall deliver the warrant to the county treasurer for apportionment. The county treasurer shall show on each tax receipt the amount of tax credit for each tract of agricultural land. In case of change of ownership the credit shall follow the title.

90 Acts, ch 1250, §16; 2003 Acts, ch 145, §286; 2004 Acts, ch 1101, §51

#### **425A.8 False claim penalty.**

A person making a false claim or affidavit with fraudulent intent to obtain the credit under section 425A.3, is guilty of a fraudulent practice and the claim shall be disallowed in full. If the credit has been paid, the amount of the credit plus a penalty equal to twenty-five percent of the amount of credit plus interest, at the rate in effect under section 421.7, from the time of payment shall be collected by the county treasurer in the same manner as other property taxes, penalty, and interest are collected and when collected shall be paid to the director of revenue.

A person who fails to notify the assessor of a change in the person who is actively engaged in farming the tract for which the credit under section 425A.3 is allowed shall be liable for the amount of the credit plus a penalty equal to five percent of the amount of the credit. The amounts shall be collected by the county treasurer in the same manner as other property taxes and any penalty are collected and when collected shall be paid to the director of revenue.

90 Acts, ch 1250, §17; 2001 Acts, ch 154, §4, 6; 2003 Acts, ch 145, §286

#### **Footnotes**

Fraudulent practices; §714.8714.14

2001 amendment applies to family farm tax credit claims

filed on or after July 1, 2001; 2001 Acts, ch 154, §6