

**701—80.11 (425A) Family farm tax credit.**

**80.11(1) Eligibility for credit.** Generally, the family farm tax credit is only intended to benefit tracts of agricultural land that are owned by certain individuals or enumerated legal entities if the owner or other specified persons are actively engaged in farming.

*a.* In order for a tract of land to qualify for the family farm tax credit, the following three criteria must be satisfied:

(1) The tract of land must be an “eligible tract of agricultural land” as defined in Iowa Code subsection 425A.2(5). This means the tract must be ten acres or more or contiguous to a tract of more than ten acres and used in good faith for agricultural or horticultural purposes. More than half of the acres in the tract must be devoted to the production of crops or livestock by a designated person. Contiguous tracts under the same legal ownership and located within the same county are considered one tract. Only tracts of land that are classified as agricultural real estate qualify for the credit.

(2) The tract of land must be owned by:

1. An individual or persons related or formerly related to each other, or
2. A partnership where all the partners are related or formerly related to each other, or
3. A family farm corporation as defined in Iowa Code subsection 9H.1(8), or
4. An authorized farm corporation as defined in Iowa Code subsection 9H.1(3).

The ownership criteria must be met on June 30 of the fiscal year prior to the fiscal year in which the application for credit is filed. For example, the ownership criteria must be met on June 30, 1990, for applications for credit filed in 1990.

(3) A designated person must be “actively engaged in farming” the tract during the fiscal year prior to the fiscal year in which the application for credit is filed. If the tract is owned by an individual or related persons, the designated person who is actively engaged in farming must be an owner of the tract, the owner’s spouse, or the owner’s relative within the third degree of consanguinity or their spouses. This includes the owner’s child, stepchild, grandchild, great-grandchild, parent, grandparent, great-grandparent, brother, sister, uncle, aunt, niece, or nephew or their spouses. The only step relative that may qualify as a designated person is a stepchild. If the owner of the tract is a partnership, the designated person who is actively engaged in farming must be a partner or a partner’s spouse. If the owner of the tract of land is a family farm corporation, the designated person who is actively engaged in farming must be a family member who is a shareholder of the family farm corporation or the shareholder’s spouse. If the owner of the tract of land is an authorized farm corporation, the designated person who is actively engaged in farming must be the shareholder who owns at least 51 percent of the stock of the authorized farm corporation or that shareholder’s spouse.

If the owner is an individual who leases the land to a family farm corporation or partnership, a shareholder of the corporation or a partner of the partnership shall be considered a designated person if the combined stock of the family farm corporation or the combined partnership interest owned by the owner, the owner’s spouse and persons related to the owner within the third degree of consanguinity and their spouses is equal to at least 51 percent of the stock of the family farm corporation or the ownership interest in the partnership.

*b.* In order to be “actively engaged in farming” the designated person must be personally involved in the production of crops or livestock on the “eligible tract” on a regular, continuous and substantial basis. Personal involvement in the production of crops or livestock includes not only field activities such as soil preparation and testing, planting, fertilizing, spraying, inspecting, cultivating and harvesting but also managerial decision-making activities relating to hybrid selection, crop rotation planning, crop selection, equipment purchases and marketing strategies. Personal involvement in the production of crops or livestock also includes activities pertaining to crop insurance selection, loan selection, and financial record maintenance and preparation. A person performing activities in the capacity of a lessor,

whether under a cash or crop-share lease and whether under a written or oral lease, is not actively engaged in farming on the area of the tract covered by the lease.

c. Tracts subject to a federal program pertaining to agricultural land. In lieu of satisfying the “actively engaged in farming” test, a designated person may demonstrate that the person was in general control of the tract which was subject to a federal program pertaining to agricultural land during the prior fiscal year. This alternative test is intended to apply in circumstances where the active farming criteria cannot be met because the land is in the Conservation Reserve Program (commonly referred to as the CRP) or a program substantially similar to the 0/92 option where the tract has been taken out of production.

d. The following examples illustrate family farm tax credit eligibility under various circumstances:

EXAMPLE 1. A and B jointly own land and were both personally involved in the farming operation. They are not related. No credit is allowable because it is a requirement that individual owners be related. If A and B were brothers, the land would qualify for the credit.

EXAMPLE 2. A owns the land and is retired. A leased the land to B, his son. B was personally involved in the farming operation. The land is eligible for the credit even though a lease arrangement existed because the actively engaged in farming requirement can be satisfied through the activities of the owner’s spouse, or the owner’s relative within the third degree of consanguinity or the relative’s spouse. See paragraph “a,” subparagraph (3), of this subrule. No credit would be allowable if A and B were not related.

EXAMPLE 3. A owns two contiguous 40-acre tracts. A farmed all of one tract but only 15 acres of the other tract. The other 25 acres of the second tract were leased to a nondesignated person. Both tracts qualify for the credit because contiguous tracts under the same legal ownership are considered one tract and more than half of the total of 80 acres ( $40 + 15 = 55$ ) were farmed by A.

EXAMPLE 4. The land is owned by a partnership in which the partners A, B, C and D are brothers. A and B farm the land but C and D have no involvement in the farming operation. The land is eligible for the credit because it makes no difference what level of involvement each partner had nor does it matter that one or more of the partners were not personally involved in the farming operation. The only requirement for qualifying for the credit is that at least one of the partners or one of the partners’ spouses was personally involved in the farming operation. No credit would be allowable if all the partners were not related to each other.

EXAMPLE 5. The land is owned by a family farm corporation in which the stock is owned equally by A, B and C. A and B are brothers but not related to C. All three partners were personally involved in the farming operation. The land qualifies for the credit because it is only a requirement that a family member who is a shareholder in the family farm corporation be involved in the farming operation. The land would qualify for the credit even if B was not involved in the farming operation. However, no credit would be allowable if only C was involved in the farming operation.

EXAMPLE 6. The land is owned by an authorized farm corporation in which 60 percent of the stock is owned by A and 40 percent of the stock is owned by B. Both A and B were personally involved in the farming operation. The credit is allowable as long as the stockholder who owns at least 51 percent of the stock was personally involved in the farming operation. No credit would be allowable if A was not personally involved in the farming operation.

**80.11(2) *Application for credit.*** To obtain the credit, the owner must file an application for credit with the assessor by November 1. If the claim for credit is approved, no further filing shall be required provided the ownership and the designated person actively engaged in farming the property remain the same during successive years. A new application for credit shall be required only if the property is sold or the designated person changes. The county board of supervisors shall review all claims and make a determination as to eligibility. The claimant may appeal a decision of the board to district court by giving written notice to the board within 20 days of the board’s notice.

**80.11(3) *Application of credit.*** The county auditor shall certify to the department of revenue by April 1 the total amount of family farm tax credits due the county. The county auditor shall apply the

credit to each eligible tract of land in an amount equal to the school district tax rate which is in excess of \$5.40 multiplied by the taxable value of the eligible tract.

**80.11(4) *Penalty.*** The owner shall provide written notice to the assessor if the designated person changes. Failure to do so shall result in the owner's being liable for the amount of the credit plus a penalty equal to 5 percent of the amount of the credit granted.

This rule is intended to implement Iowa Code chapter 425A as amended by 2001 Iowa Acts, House Files 712 and 713.