

**House Study Bill 166 - Introduced**

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
AGRICULTURE BILL BY  
CHAIRPERSON GRASSLEY)

**A BILL FOR**

1 An Act exempting certain farm real estate from the inheritance  
2 tax, and including applicability provisions.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 450.1, subsection 1, paragraph d, Code  
2 2013, is amended to read as follows:

3 *d. ~~"Real estate or real~~ "Real estate" or "real property" for*  
4 the purpose of appraisal under this chapter means real estate  
5 which is the land and appurtenances, including structures  
6 affixed thereto.

7 Sec. 2. Section 450.1, subsection 1, Code 2013, is amended  
8 by adding the following new paragraphs:

9 NEW PARAGRAPH. *0a. "Farming operation" means the use of*  
10 farm real estate to produce a crop as defined in section 717.1  
11 or to produce livestock as defined in section 717.1.

12 NEW PARAGRAPH. *00a. (1) "Farm real estate" means real*  
13 estate that is all of the following:

14 (a) Ten acres or more that are not laid off into lots  
15 of less than ten acres or divided by streets or alleys into  
16 parcels of less than ten acres.

17 (b) Used for a farming operation.

18 (2) "Farm real estate" includes a residence and associated  
19 garage or shed constructed on the real estate and any structure  
20 located on the real estate that is constructed for use as part  
21 of a farming operation as described in subparagraph (1).

22 Sec. 3. Section 450.7, Code 2013, is amended by adding the  
23 following new subsection:

24 NEW SUBSECTION. 4. This section does not apply to family  
25 farm property subject to a qualified exemption and qualified  
26 lien as provided in sections 450.9A and 450.9B.

27 Sec. 4. Section 450.9, Code 2013, is amended to read as  
28 follows:

29 **450.9 Individual exemptions.**

30 In computing the tax on the net estate, the entire amount of  
31 property, all of the following applies:

32 1. The interest in property, and income passing  
33 to the surviving spouse, and parents, grandparents,  
34 great-grandparents, and other lineal ascendants, children  
35 including legally adopted children and biological children

1 entitled to inherit under the laws of this state, stepchildren,  
2 and grandchildren, great-grandchildren, and other lineal  
3 descendants are exempt from tax.

4 2. Family farm property is exempt from tax as provided in  
5 section 450.9A.

6 Sec. 5. NEW SECTION. **450.9A Family farm property —**  
7 **qualified exemption.**

8 The tax on real property and personal tangible property  
9 as provided in section 450.2 shall not be imposed on family  
10 farm property located in this state if a qualified exemption  
11 is elected by a person who is passed such property under this  
12 chapter. In order to make the election, all of the following  
13 must apply:

14 1. The family farm property is limited to the following:

15 a. Farm real estate. However, more than half the total  
16 acres of the farm real estate must have been devoted to a  
17 farming operation at any time in the last three years prior to  
18 the year of the decedent's death.

19 b. Farm machinery and equipment used in the farming  
20 operation and passed as part of the same bequest or devise as  
21 the farm real estate described in paragraph "a".

22 2. The family farm property is passed to any of the  
23 following:

24 a. A qualified individual. The qualified individual must  
25 be related to the decedent within the second, third, or fourth  
26 degree of consanguinity or affinity, excluding any individual  
27 who is exempt from tax as provided in another provision of this  
28 chapter. The family farm property may pass to more than one  
29 qualified individual to the extent that the interest is shared  
30 by all qualified individuals.

31 b. A partnership in which all partners are qualified  
32 individuals as described in paragraph "a".

33 c. A family farm corporation or family farm limited  
34 liability company as defined in section 9H.1. However, the  
35 shareholders of the family farm corporation or members of the

1 family farm limited liability company must all be related to  
2 the decedent as qualified individuals as provided in paragraph  
3 "a".

4 3. The interest in the farm real estate passes in fee  
5 simple, notwithstanding any debt, lien, or other encumbrance  
6 against the farm real estate.

7 4. An appraisal prepared pursuant to section 450.24 is filed  
8 with the clerk of court and the director of revenue pursuant  
9 to section 450.29.

10 5. An inheritance tax qualified exemption statement is  
11 filed with the department of revenue on a form prescribed by  
12 the department.

13 a. The statement shall include the amount of the tax due as  
14 if an election were not made under this section.

15 b. The statement must be filed in the office of the county  
16 recorder of the county where the estate is probated, and of the  
17 county where the farm real estate is located. The statement  
18 must be filed for recording prior to filing the statement with  
19 the department. The statement shall be filed in the manner  
20 provided in section 558.66. The statement shall be indexed as  
21 provided in sections 558.49 and 558.52.

22 c. The statement must be filed with the department on or  
23 before the date that the tax is required to be paid under  
24 section 450.6.

25 6. a. For ten years from the date of the decedent's  
26 death, a person eligible to make an election as provided in  
27 this section who conveys the farm real estate to a person  
28 not eligible to make such an election is liable for the tax  
29 otherwise imposed upon the family farm property as provided in  
30 this chapter. A person is not liable for the tax so long as  
31 the person being conveyed the farm real estate would have been  
32 eligible to make the election if the decedent had died on the  
33 date the conveyance was made.

34 b. The department shall assess interest on the amount due as  
35 if the tax was delinquent beginning on the date of conveyance

1 at the rate in effect under section 421.7.

2 Sec. 6. NEW SECTION. 450.9B Family farm property —  
3 qualified lien.

4 1. A qualified lien is created on farm real estate that  
5 is subject to a family farm property qualified exemption as  
6 provided in section 450.9A. The amount of the qualified lien  
7 equals the amount of the person's tax liability and interest as  
8 provided in that section. The lien does not apply to the farm  
9 real estate if the lien provided in section 450.7, subsection  
10 1, would also have not applied to the farm real estate.

11 2. The qualified lien expires on the date that a person  
12 eligible to make an election under section 450.9A is no longer  
13 liable for the tax.

14 3. Notwithstanding the requirement that the inheritance tax  
15 qualified exemption statement be filed with a county recorder  
16 as provided in section 450.9A, a notice of the qualified lien  
17 created in this section is not required to be recorded in order  
18 to preserve the rights of the department as a lien holder.

19 4. The rights of the department under the qualified lien  
20 created in this section have priority over all subsequent  
21 mortgages, purchases, or judgment creditors. A conveyance  
22 after the decedent's death of the farm real estate does not  
23 discharge the qualified lien. However, if any additional tax  
24 is determined to be owing under this chapter or chapter 451  
25 after the qualified lien has been released under subsection  
26 5, paragraph "a", subparagraph (1) or (2), the qualified lien  
27 does not have priority over subsequent mortgages, purchases,  
28 or judgment creditors unless notice of the qualified lien  
29 is recorded in the office of the county recorder in the  
30 same counties where the inheritance tax qualified exemption  
31 statement is required to be filed pursuant to section 450.9A.

32 5. a. The department of revenue may release the qualified  
33 lien by filing in the office of the clerk of the court in  
34 the county where the farm real estate is located, where the  
35 decedent owner died, or where the estate is pending or was

1 administered, one of the following:

2 (1) A receipt in full payment of the tax.

3 (2) A certificate of nonliability for the tax as to the farm  
4 real estate reported in the estate.

5 (3) A waiver of the qualified lien as to all or any  
6 part of the farm real estate reported in the estate, which  
7 shall release the qualified lien as to the farm real estate  
8 designated in the waiver.

9 b. Upon request, the department shall provide a person with  
10 a copy of the receipt, certificate, or waiver.

11 Sec. 7. Section 450.10, subsection 6, Code 2013, is amended  
12 to read as follows:

13 6. a. Property, interest in property, or income  
14 passing to the surviving spouse, and parents, grandparents,  
15 great-grandparents, and other lineal ascendants, children  
16 including legally adopted children and biological children  
17 entitled to inherit under the laws of this state, stepchildren,  
18 and grandchildren, great-grandchildren, and other lineal  
19 descendants, is not taxable under this section.

20 b. Family farm property is exempt from tax as provided in  
21 section 450.9A.

22 EXPLANATION

23 BACKGROUND — INHERITANCE TAX. Code chapter 450 imposes an  
24 inheritance tax on real estate and tangible personal property  
25 located in this state.

26 BACKGROUND — CONSANGUINITY AND AFFINITY. Generally, an  
27 inheritance tax is assessed differently upon family members  
28 of the decedent. An individual's familial relationship is  
29 classified according to an assigned number (degree) that  
30 separates the individual from an ancestor (consanguinity) or  
31 from a spouse's ancestor (affinity). In either case, the  
32 relationship is measured lineally where one person is ascending  
33 from an ancestor (father, grandfather, great-grandfather, and  
34 so on) or descending from that ancestor (child, grandchild,  
35 great-grandchild, and so on). Alternatively, the relationship

1 may be measured collaterally where two individuals share a  
2 common ancestor but not by linear ascent or descent (e.g., a  
3 brother, sister, uncle, or cousin).

4 For consanguinity, the first degree includes a parent or  
5 child; the second degree includes a grandparent, sibling, or  
6 grandchild; the third degree includes a great-grandparent,  
7 aunt or uncle, niece or nephew, or great-grandchild; and  
8 the fourth degree includes a great-niece or great-nephew,  
9 great-aunt or great-uncle, or first cousin. For affinity,  
10 family relationships are measured on the spouse's side in the  
11 same manner.

12 CURRENT INHERITANCE TAX — RATES. The amount of inheritance  
13 tax assessed on property in Iowa depends upon the status of  
14 the inheriting person and, if the person is an individual, the  
15 amount of that individual's inheritance share. For example,  
16 for property passing to a second degree family member (brother  
17 or sister, or son-in-law or daughter-in-law) the bottom rate  
18 is 5 percent on an amount up to \$12,500 and the top rate is  
19 10 percent on an amount in excess of \$150,000. For all other  
20 individuals, the bottom rate is 10 percent on an amount up to  
21 \$50,000 and the top rate is 15 percent on an amount in excess of  
22 \$100,000. A for-profit corporation is assessed a single rate  
23 of 15 percent.

24 CURRENT INHERITANCE TAX — EXEMPTIONS FOR INDIVIDUALS.  
25 Currently, an individual is exempt from inheritance tax if the  
26 individual is related to the decedent as a spouse or stepchild;  
27 as a lineal ascendant beginning with a parent (first degree),  
28 and then grandparent (second degree), great-grandparent (third  
29 degree), great-great-grandparent (fourth degree) and so on; or  
30 as a lineal descendant beginning with child (first degree),  
31 and then grandchild (second degree), great-grandchild (third  
32 degree), great-great-grandchild (fourth degree), and so on.

33 BILL — PROPOSED INHERITANCE TAX ON FARM REAL ESTATE. The  
34 bill exempts (1) a person inheriting family farm property  
35 within the second, third, or fourth degree of consanguinity

1 or affinity, (2) more than one individual where the divided  
2 interest is shared by individuals related within that degree,  
3 (3) a partnership where all partners are related within that  
4 degree, or (4) a family farm corporation or family farm limited  
5 liability company (Code chapter 9H) where equity holders are so  
6 related. Family farm property includes farm real estate of 10  
7 acres or more where a farming operation is located and any farm  
8 machinery and equipment used in the farming operation. The  
9 interest in the farm real estate must pass in fee simple.

10 BILL — SPECIAL CLAW-BACK PROVISION. The bill requires a  
11 qualified exemption statement to be filed in the office of the  
12 county recorder of the county in which the farm real estate  
13 is located, with a copy of the statement delivered to the  
14 department in lieu of the tax payment. A person who is passed  
15 the family farm property is liable for the inheritance tax if  
16 the person conveys the farm real estate to a person who is not  
17 related within the fourth degree of consanguinity or affinity  
18 to the decedent within 10 years after the decedent's death.  
19 The department is required to assess interest on the amount due  
20 as if the tax was delinquent.

21 BILL — QUALIFIED LIEN. The bill creates a qualified  
22 lien on the farm real estate that is subject to the family  
23 farm property qualified tax exemption. The department of  
24 revenue is the lienholder. The amount of the qualified lien  
25 equals the amount of the person's tax liability and interest.  
26 The qualified lien is based on a current lien used by the  
27 department of revenue (Code section 450.7). The qualified  
28 lien expires after a person eligible to make an election for a  
29 qualified exemption is no longer liable for the tax.

30 BILL — APPLICABILITY. This Act applies to estates of  
31 decedents dying on or after July 1, 2013.