

House Study Bill 188 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON HEIN)

A BILL FOR

1 An Act relating to taking a capital gain deduction for the sale
2 of real property used in a farming business.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. 2018 Iowa Acts, chapter 1161, section 113, is
2 amended by striking the section and inserting in lieu thereof
3 the following:

4 SEC. 113. Section 422.7, subsection 21, Code 2018, is
5 amended by striking the subsection and inserting in lieu
6 thereof the following;

7 21. a. For purposes of **this subsection**:

8 (1) "*Farming business*" means the production, care, growing,
9 harvesting, preservation, handling, or storage of crops
10 or forest or fruit trees; the production, care, feeding,
11 management, and housing of livestock; or horticulture, all for
12 intended profit.

13 (2) "*Held*" shall be determined with reference to the holding
14 period provisions of section 1223 of the Internal Revenue Code
15 and the federal regulations pursuant thereto.

16 (3) "*Livestock*" means the same as defined in section 717.1.

17 (4) "*Materially participated*" means the same as "*material*
18 *participation*" in section 469(h) of the Internal Revenue Code.

19 (5) (a) "*Real property used in a farming business*" means
20 all tracts of land and the improvements and structures located
21 on them which are in good faith used primarily for a farming
22 business. Buildings which are primarily used or intended for
23 human habitation are deemed to be used in a farming business
24 when the building is located on or adjacent to the parcel
25 used in the farming business. Land and the nonresidential
26 improvements and structures located on it shall be considered
27 to be used primarily in a farming business include but are
28 not limited to land, improvements or structures used for the
29 storage or maintenance of farm machinery or equipment, for the
30 drying, storage, handling, or preservation of agricultural
31 crops, or for the storage of farm inputs, feed, or manure.
32 Real property used in a farming business shall also include
33 woodland, wasteland, pastureland, and idled land used for the
34 conservation of natural resources including soil and water.

35 (b) Real property classified as agricultural property for

1 Iowa property tax purposes, except real property described
2 in section 441.21, subsection 12, paragraph "a" or "b",
3 shall be presumed to be real property used in a farming
4 business. This presumption is rebuttable by the department by
5 a preponderance of evidence that the real property did not meet
6 the requirements of subparagraph division (a).

7 (6) "Relative" means a person that satisfies one or more of
8 the following conditions:

9 (a) The individual is related to the taxpayer by
10 consanguinity or affinity within the second degree as
11 determined by common law.

12 (b) The individual is a lineal descendent of the taxpayer.
13 For purposes of this subparagraph division, "lineal descendent"
14 means children of the taxpayer, including legally adopted
15 children and biological children, stepchildren, grandchildren,
16 great-grandchildren, and any other lineal descendent of the
17 taxpayer.

18 (c) An entity in which an individual who satisfies the
19 conditions of either subparagraph division (a) or (b) has a
20 legal or equitable interest as an owner, member, partner, or
21 beneficiary.

22 b. Subtract the net capital gain from the sale of real
23 property used in a farming business if one of the following
24 conditions are satisfied:

25 (1) The taxpayer has materially participated in a farming
26 business for a minimum of ten years and has held the real
27 property used in a farming business for a minimum of ten years.

28 (2) The taxpayer has held the real property used in a
29 farming business which is sold to a relative of the taxpayer.

30 EXPLANATION

31 The inclusion of this explanation does not constitute agreement with
32 the explanation's substance by the members of the general assembly.

33 This bill modifies the capital gain deduction for the sale of
34 real property used in a farming business enacted in 2018 Iowa
35 Acts, chapter 1161, section 113. The capital gain deduction

1 for the sale of real property used in a farming business is set
2 to begin in tax year 2023 or in a later tax year, contingent
3 upon the satisfaction of certain net general fund revenue
4 amount and growth targets.

5 Currently, the capital gain deduction for the sale of real
6 property used in a "farming business" set to go into effect
7 in 2023 or a later tax year restricts the deduction to the
8 sale of "real property used in a farming business", provided
9 the taxpayer "materially participated" in the farming business
10 for at least 10 years, held the real property for at least
11 10 years, and sold the real property to a "relative", all as
12 defined in 2018 Iowa Acts, chapter 1161.

13 The bill modifies the restrictions relating to the deduction
14 for the sale of real property used in farming business by
15 permitting the taxpayer to take the deduction if one of the
16 following apply: the taxpayer "materially participated" in
17 the farming business for at least 10 years and held the real
18 property for at least 10 years; or the taxpayer sold the real
19 property to a "relative". The bill expands the definition of
20 "relative" to include an entity in which a relative of the
21 taxpayer has a legal or equitable interest in the entity as an
22 owner, member, partner, or beneficiary.

23 The bill also modifies the definitions of "farming business"
24 and "real property used in a farming business". The bill
25 defines "livestock" to mean the same as defined in Code section
26 717.1, which is used in the definition of farming business.

27 The bill strikes provisions related to restricting the
28 capital gain deduction for the sale of real property used in a
29 farming business if the relative sells or transfers the real
30 property used in a farming business within five years of the
31 original sale.

32 The bill also strikes a provision providing that to the
33 extent otherwise allowed, the capital gain deduction for the
34 sale of real property used in a "farming business" shall not be
35 allowed for purposes of computing income for the taxable year

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1 or years for which a net operating loss is deducted under the
2 Internal Revenue Code or under Code section 422.9 (deductions
3 from net income).

4 The bill does not change the future effective date of the
5 capital gain deduction for the sale of real property used in a
6 farming business.