

## CHAPTER 162

### SALE OF FARMING BUSINESS REAL PROPERTY — CAPITAL GAIN DEDUCTION

H.F. 778

**AN ACT** relating to taking a capital gain deduction for the sale of real property used in a farming business.

*Be It Enacted by the General Assembly of the State of Iowa:*

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

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

21. a. For purposes of this subsection:

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

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

(3) “*Livestock*” means the same as defined in section 717.1.

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

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

(b) Real property classified as agricultural property for Iowa property tax purposes, except real property described in section 441.21, subsection 12, paragraph “a” or “b”, shall be presumed to be real property used in a farming business. This presumption is rebuttable by the department by a preponderance of evidence that the real property did not meet the requirements of subparagraph division (a).

(6) “*Relative*” means a person that satisfies one or more of the following conditions:

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

(b) The individual is a lineal descendent of the taxpayer. For purposes of this subparagraph division, “*lineal descendent*” means children of the taxpayer, including legally adopted children and biological children, stepchildren, grandchildren, great-grandchildren, and any other lineal descendent of the taxpayer.

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

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

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

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

Approved May 21, 2019