

Subject Agricultural homestead rules—property owned by trusts

Authors Poppe and others

Analyst Jared Swanson (jared.swanson@house.mn)
Christopher Kleman (christopher.kleman@house.mn)

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Overview

H.F. 398 allows agricultural land and other property (e.g., the house, garage, and agricultural buildings) to qualify as a homestead when the property is owned by any combination of trusts, for which a deceased or surviving spouse is the grantor. Present law does not allow two trusts to be linked for agricultural homestead purposes. These rules can disqualify portions of agricultural property from receiving homestead tax treatment if some property is owned by a trust of which a surviving spouse was the grantor and other property is owned by a trust of which the deceased spouse was the grantor, but for which the surviving spouse only has a limited interest (e.g., a qualified terminable interest property or QTIP trust).

These changes also have implications for the estate tax; to qualify under the estate tax subtraction for qualified farm property, the property must be classified under the property tax for the three years prior to the decedent's death as agricultural, special agricultural, or agricultural relative homestead property. Expanding the agricultural homestead rules may allow additional properties to qualify for the qualified farm property subtraction.

H.F. 398 also proposes to amend and clarify the provisions of law that provide relief from a spouse's joint and several liability (i.e., each spouse is liable for 100 percent of the underpayment) for underpayments of tax when filing a joint return.

This bill also modifies the qualified property rules under the estate tax to permit a spouse's ownership in various forms to satisfy the 3-year ownership period that applies under current law solely to the decedent. The qualified property rules allow qualified farmland and small business property to increase the amount exempt from the estate to \$5 million, when combined with the generally applicable exemption amount. Present law requires the decedent to have owned the farmland or small business property to qualify.

Summary

Section	Description
1	<p>Agricultural homesteads; special provisions.</p> <p>Eliminates language allowing certain special agricultural homesteads owned by grantor trusts to qualify for homestead property tax status. This language is moved to section 2.</p> <p>Effective date: taxes payable in 2020.</p>
2	<p>Trust property; homestead.</p> <p>Modifies the statute that allows certain properties owned by trusts to qualify for homestead property tax treatment. This section:</p> <ul style="list-style-type: none">• Adds the language eliminated in section 1.• Defines agricultural land for agricultural homestead rules and classification statutes so that the rules requiring agricultural property to have the same ownership (e.g. when a farm is divided into multiple parcels with different owners or when there are multiple owners of a parcel) are satisfied if the properties are owned by some combination of the individual owner, the individual's spouse or surviving spouse, or a trust or trusts, the grantor of which is the individual, spouse, surviving spouse, or deceased spouse.• Extends the proposed trust ownership rule to noncontiguous parcels located within four townships or cities. <p>Effective date: taxes payable in 2020.</p>
3	<p>Tax liability; joint income tax returns.</p> <p>Provides for automatic innocent spouse and equitable relief when a taxpayer qualifies for this type of relief under the Internal Revenue Code. Eliminates the requirement to request a separate return within six years of the due date for the return when requesting allocation of liability. Allocation may be requested if a spouse is no longer married to the spouse with whom they filed a joint return.</p> <p>Effective date: Tax year 2019</p>
4	<p>Estate tax; qualified small business property.</p> <p>Modifies the required holding period for qualified small business property to provide that ownership by either of the spouses in various ownership forms (undivided, joint, QTIP trust, etc.) can be used to satisfy the 3-year requirement. It does not matter if the spouse predeceased the decedent. Under current law, the decedent is required to own the property for the 3-year period.</p> <p>Effective date: Decedents dying after December 31, 2017</p>

Section	Description
5	<p data-bbox="341 262 1429 304">Estate tax; qualified farm property.</p> <p data-bbox="341 304 1429 493">Modifies the required holding period for qualified farm property to provide that ownership by either of the spouses in various ownership forms (undivided, joint, QTIP trust, etc.) can be used to satisfy the 3-year requirement. It does not matter if the spouse predeceased the decedent. Under current law, the decedent is required to own the property for the 3-year period.</p> <p data-bbox="341 514 1429 558">Effective date: Decedents dying after December 31, 2017</p>



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