

Batting 500.24 for the Family Farm – Part II

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Introduction

Batting 500.24 for the Family Farm – Part I specifically examined the broad definition of “family farms” as it was laid out in 1973 in Minnesota Statutes 500.24 for enforcement by the Minnesota Department of Agriculture. Also known as the Minnesota Corporate Farm Law, its stated purpose was and is “to encourage and protect the family farm as a basic economic unit, to insure it as the most socially desirable mode of agricultural production, and to enhance and promote the stability and well-being of rural society in Minnesota and the nuclear family.”¹

25 years later, subsequent legislation referenced the MS 500.24 definition of “family farm” as a benchmark description for *authorized entities* which are eligible for *special agricultural homestead* benefits under three different subdivisions of the law. Although the Special Agricultural Homestead enabling legislation in MS 273.124 deals broadly with extending a homestead to previously ineligible agricultural properties, the remainder of this article will focus only on *authorized entities*.

Identifying the Problem

When faced with a seemingly insurmountable problem that overwhelms the senses, Minnesotans of Norwegian descent (or even Norse wannabes) will often utter a familiar retort to express their exasperation:

**Uff da
(oof da)**

Identifying those properties, owners, entities, occupants, and operators who do in deed qualify for Special Agricultural Homestead treatment is undeniably one of those situations. Fortunately, the aforementioned Norwegian phrase also provides a stepwise methodology to simplify the problem and overcome the frustration. A person only needs to answer the three “oof da” questions to solve the riddle:

1. Who **O**ccupies the property?
2. Who **O**wns the property?
3. Who **f**arms the property?

da or “Duh, I’ve got it!

Step 1: Who Occupies the Property?

The property where an individual or couple lives is generally considered to be their primary homestead and determines which other parcels with the exact same ownership and classification can be linked to receive extended homestead treatment. There are, of course, notable exceptions to the above rule for relatives, trusts, co-owners, and spouses, which need to be researched and understood.

In the case of ag-classed properties, owners that live on their primary parcel and participate in the farming operation on a regular and substantial basis are considered to be *actively engaged in farming*. There is generally no higher level of scrutiny required beyond establishing occupancy by the farm owner to be deemed *actively engaged in farming*. Within the statutes, *actively engaged in farming* and *actively farming* for the Special Agricultural Homestead have two separate and distinct

¹ 2007 Minnesota Statutes 500.24, Subd. 1.

meanings, although they are not necessarily mutually exclusive. Confusion between the two will ultimately lead to an improper classification. *Active farming* will be defined and discussed in Step 3 of this article.

A *qualified person*, as it relates to *authorized entities* in this discussion, is simply a Minnesota resident who is a member, shareholder, or partner in an *authorized entity*.

Step 2: Who Owns the Property?

MS 273.124 specifically entitles each *family farm corporation*; each *joint family farm venture*; and each *limited liability company* or *partnership* which operates a *family farm* to an agricultural homestead, with certain occupancy and operational limitations.²

- A “*family farm corporation*” is defined as a corporation founded for the purpose of farming and the ownership of agricultural land and:
 - a. Meets the definition within MS 500.24³, except the number of allowable shareholders shall not exceed 12;
 - b. Officer has completed a Minnesota Corporate Farm Application and received approval from Minnesota Department of Agriculture.
- A “*joint family farm venture*” is defined as a cooperative agreement among two or more farm enterprises authorized to operate a *family farm* under the definitions within MS 500.24 and
 - a. An officer from each farm enterprise must have completed a Minnesota Corporate Farm Application and received current approval from the Minnesota Department of Agriculture.
 - b. The *joint family farm venture* shall have no more than 12 total shareholders, members, or partners.
- A “*limited liability company*” is defined as a domestic limited liability company or

organized under and governed by Chapter 322B.03⁴ and

- a. Operates a *family farm*, which is an unincorporated farming unit owned by one or more persons residing on the farm or *actively engaging* in farming;⁵
 - b. Meets the definitions within MS 500.24^{6 7}, except the number of allowable members shall not exceed 12;
 - c. Officer has completed a Minnesota Corporate Farm Application and received current approval from Minnesota Department of Agriculture.
- A “*partnership operating a family farm*” is defined as a *family farm partnership*, which is a limited partnership formed for the purpose of farming and the ownership of agricultural land⁸, or an *authorized farm partnership*, which is a certified or recorded limited partnership with no more than five partners and with a stated purpose of farming and the ownership of agricultural land,⁹ and
 - a. Operates a *family farm*, which is an unincorporated farming unit owned by one or more persons residing on the farm or *actively engaging* in farming;¹⁰
 - b. Meets the definition within MS 500.24, except the number of allowable partners of a *family farm partnership* shall not exceed 12;
 - c. A partner has completed a Minnesota Corporate Farm Application and received current approval from the Minnesota Department of Agriculture.
 - A “*partnership operating a family farm*” is also defined as a general partnership and limited liability partnership that:
 - a. Operates a *family farm*, which is an unincorporated farming unit owned by

⁴ 2007 Minnesota Statutes 322B.03, Subd. 28.

⁵ 2007 Minnesota Statutes 500.24, Subd. 2(b).

⁶ 2007 Minnesota Statutes 500.24, Subd. 2(l).

⁷ 2007 Minnesota Statutes 500.24, Subd. 2(m).

⁸ 2007 Minnesota Statutes 500.24, Subd. 2(j).

⁹ 2007 Minnesota Statutes 500.24, Subd. 2(k).

¹⁰ 2007 Minnesota Statutes 500.24, Subd. 2(b).

² 2007 Minnesota Statutes 273.124, Subd. 8(a).

³ 2007 Minnesota Statutes 500.24, Subd. 2(c).

- one or more persons residing on the farm or *actively engaging* in farming;¹¹
- b. Has no more than 12 partners;
- c. Note: MS 500.24 does not regulate general partnerships and LLPs and therefore they can legally engage in farming and have an interest in agricultural land without needing to meet further statutory requirements under this Chapter.
- Agricultural property owned by a natural person, but leased to an *authorized entity* or *actively farmed* by the owner or a qualifying relative, may in some instances qualify for a Special Agricultural Homestead, subject to certain occupancy and operational limitations.^{12 13}

Any *family farm corporation, joint family farm venture, limited liability company, or partnership* which meets the aforementioned definitions is inclusively called an *authorized entity*.

Step 3: Who Farms or Operates the Property?

A farmer who contributes and participates in the day-to-day decision making, labor, administration, and management of the farming operation is considered to be an *active farmer* who is *actively farming* the property in question. The key phrase is “day-to-day” participation, although there is no specified percentage that the farmer needs to contribute. This definition precludes owners who just drive the tractor, combine, or pickup or just do the bookkeeping. It also precludes owners who formally or informally lease the farm property to others.

If neither the owner nor the owner’s spouse of individually-owned property meets the *actively engaged* or the *actively farming* tests, the owner’s child, grandchild, or parent or the owner’s spouse’s child or grandchild may occupy or *actively farm* the property and qualify the owner by

proxy for a relative agricultural homestead or Special Agricultural Homestead respectively. To qualify for the relative agricultural homestead, neither the qualifying relative, nor his/her spouse can claim another agricultural homestead in Minnesota and only one is allowed per family. To qualify for a Special Agricultural Homestead with a *qualifying relative actively farming* the property, neither the owner nor his/her spouse can claim another agricultural homestead in Minnesota (*qualifying relative/active farmer* may) and neither the owner nor the qualifying relative may live more than four townships from the property. A property owned by one or more individuals (not an entity) and not leased to an *authorized entity* from the owner who is a *qualified person* in that entity, may qualify for a Special Agricultural Homestead if the owner, the owner’s spouse, or the child or grandchild of the owner or his/her spouse is *actively farming* the farm property on their own behalf or on behalf of an *authorized entity* of which they are a *qualified person*, subject the aforementioned restrictions.

Duh! It Starting to Make Sense Now!

Once it is known who lives on, owns, and operates the farm related to an *authorized entity*, there are just a few more facts that need to be established:

1. Is the *qualified person* a Minnesota resident?
2. If a *qualified person* in an *authorized entity* leases a farm property to an *authorized entity*, is the lessee a *qualified person* who is *actively farming* the property?
3. Is the subject parcel 40 acres in size or greater?
4. Does the *qualifying person* and his/her spouse claim another agricultural homestead in Minnesota?
5. If the owner is a natural person and the subject property is *actively farmed*, does the owner claim another agricultural homestead in Minnesota?
6. Does the *qualifying person* live more than four townships or cities away from the subject property?
7. If the owner is a natural person and the subject property is *actively farmed*, does

¹¹ 2007 Minnesota Statutes 500.24, Subd. 2(b).

¹² 2007 Minnesota Statutes 273.124, Subd. 14(g).

¹³ 2007 Minnesota Statutes 273.124, Subd. 14(b)(i)

the owner live more than four townships or cities away from the subject property?

Only when the *active farmer* is a qualifying relative of the owner claiming a Special Agricultural Homestead, can the *active farmer* claim another agricultural homestead in his own name. With a knowledge of the facts surrounding the property and an understanding of the current Minnesota Statutes, a determination can be made for a Special Agricultural Homestead Classification for an agricultural property germane to an *authorized entity*. It should be noted again that owner-occupied agricultural homesteads and relative agricultural homestead classifications for natural persons and trustees are outside of the purview of this article for the most part. The following table summarizes the decision-making process:

Occupant?	QP-AEF	No QP	No QP	No QP
Owner?	AE	AE	NP/QP	NP/QP
Operator?	NA	AF for AE	AF	AF for AE or for self
Lessee?	NA	NA	QP	NA
Size > 40Ac	NA	Yes	Yes	Yes
QP Claims Another Ag Hmstd?	NA	No	No	No
Owner Claims Another Ag Hmstd?	NA	NA	NA	No
QP Lives > 4 Townships Away?	NA	No	No	No
Owner Lives > 4 Townships Away?	NA	NA	No	No
Initial Application Form	CR-OAEO	CR-OAE	CR-LAE	CR-SAH
Reapplication Form	CR-ROAEO	CR-ROAE	CR-RLAE	CR-RSAH

The following chart lists the abbreviations that are referenced in the table above:

AE	<i>Authorized entity</i>
AEF	<i>Actively engaged in farming</i>
AF	<i>Active farmer or actively farming</i>
CR-LAE	Application for Special Ag Homestead on Property Leased to an Authorized Entity
CR-RLAE	Re-application for Special Ag Homestead on Property Leased to an Authorized Entity
CR-OAE	Application for Special Ag Homestead on Property Owned by an Authorized Entity
CR-ROAE	Re-application for Special Ag Homestead Property Owned by an Authorized Entity
CR-OAEO	Application for Special Ag Homestead on Property Owned by an Authorized Entity and Occupied by a Qualified Person
CR-ROAEO	Application for Special Agricultural Homestead on Property Owned by an Authorized Entity and Occupied by a Qualified Person
CR-SAH	Application for Special Ag Homestead
CR-RSAH	Re-application for Special Ag Homestead
NA	Not applicable
NP	Natural person
QP	<i>Qualified person</i>

Conclusion

We've now identified each owner and each *qualified person* who is entitled to a Special Agricultural Homestead up to the annually-indexed maximum Taxable Market Value. The only further requirement is that they must be Minnesota residents. Since each shareholder, member, or partner of an *authorized entity* might qualify for a Special Agricultural Homestead in his/her own right, there is a potential for as many as 12 *qualified persons* to claim the maximum homestead benefit. Irrespective of their actual ownership percentage in the *authorized entity*, each *qualified person* is entitled to a share based on the number of persons qualifying. For example, if the parents and four sons are each 20% shareholders in a *family farm corporation*, but only the parents (1 unit) and one son are *qualified persons*, then each of the two would receive full agricultural homestead benefits, up to the maximum amount, based on 50% of the total Taxable Market Value of the agricultural parcels owned by the corporation.

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