



STATE OF DELAWARE  
DEPARTMENT OF FINANCE  
DIVISION OF REVENUE  
DELAWARE STATE BUILDING  
820 N. FRENCH STREET  
WILMINGTON, DELAWARE 19801

DIVISION OF REVENUE  
TAX RULING 79-5

July 20, 1979

- Inheritance Tax - Valuation of Certain Farm Real Estate

Section 4 of House Bill No. 334, 130th General Assembly, approved by the Governor on June 6, 1979, (Vol. 62, Chap. 56, Laws of Del.), amends Chapter 13, Title 30, Delaware Code, relating to inheritance tax, by adding a new Section 1314 to provide a more liberal method of valuation for certain farm real estate for Delaware inheritance tax purposes.

Under this amendment, if certain conditions are met, real property used for farming or some other trade or business may be valued on the basis of its "actual" use, instead of on the basis of its fair-market value based on its "highest and best" use. However, in no case may this special valuation standard reduce the gross estate by more than \$500,000.

In order to qualify for this "actual use" standard, the decedent must have been a resident of Delaware, the property must be located in Delaware and pass to a "qualified heir," the executor must make the requisite election, the decedent or member of his family must have owned and used the qualifying property and have materially participated in the operation of the farm or business in five of the decedent's last eight years. In addition, a further requirement for avoiding the fair-market value standard is that the adjusted value of real and personal property used in the farming operation or business must comprise at least 50% of the adjusted value of the decedent's gross estate, and 25% of this adjusted value must consist of qualified real property.

Qualified real property means real property located in the State which was being used as a farm for farming purposes or some other trade or business, and includes stock, dairy, poultry, fruit and truck farms, plantations, ranches, nurseries, greenhouses or other similar structures used primarily for the raising of agricultural or

horticultural commodities, and orchards and woodlands. Whether real property is used for farming purposes will be determined by the activities engaged in. Qualified real property also includes residences and related improvements located on the farm and occupied on a regular basis by the owner, his lessee or employees for operational or maintenance purposes.

The law further provides that if, within 15 years after the decedent's death, the qualified heir disposes of any interest in the qualified real property, or ceases to use the property for the qualified use (farming or other business), then an additional inheritance tax will be imposed on the qualified heir due and payable six months after the date of such disposition or cessation of use of the qualified property.

This amendment shall apply to estates of decedents dying on or after January 1, 1979.

  
John L. Sullivan  
Director of Revenue

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