REAL PROPERTY used in a FARMING BUSINESS

701 IAC 40.38 **IRC**

Is the federal holding period under IRC §1223 10 years or more immediately prior to the sale?

- No → May not qualify for a capital gain deduction
- Yes ↓

Did the taxpayer materially participate for federal purposes for 10 years immediately prior to the sale? IRC §469 (h) 40.38 (1) "C"
Note: Farmers involved in a cash farm lease or crop-share arrangement, please see IAC 40.38 (1) c (7) 4 & 5.

- Yes → Is the capital gain a flow through from a partnership, S corporation, LLC, estate or trust?
- No ↓

Are you a retired or disabled farmer, or surviving spouse of either, per IRC §2032A?

- No → May not qualify for a capital gain deduction
- Yes ↓

Is the capital gain a flow through from a partnership, S corporation, LLC, estate or trust?

- No → Was this an installment sale?
- Yes ↓

Do the flow through owners meet the holding period qualifications and material participation qualifications? 40.38 (7) paragraph 3

- No → May not qualify for a capital gain deduction
- Yes ↓

Was this an installment sale?

- No → Is the capital gain from a C Corp?
- Yes ↓

Is this only the principal paid to the seller in one or more years after the year in which the sales transaction occurred?

- No → May not qualify for a capital gain deduction
- Yes ↓

Were the principal payments received in the current tax year?

- No → May not qualify for a capital gain deduction
- Yes ↓

Is the capital gain from a C Corp?

- Yes → May not qualify for a capital gain deduction
- No ↓

May qualify for a capital gain deduction, but not greater than the qualifying gain.

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