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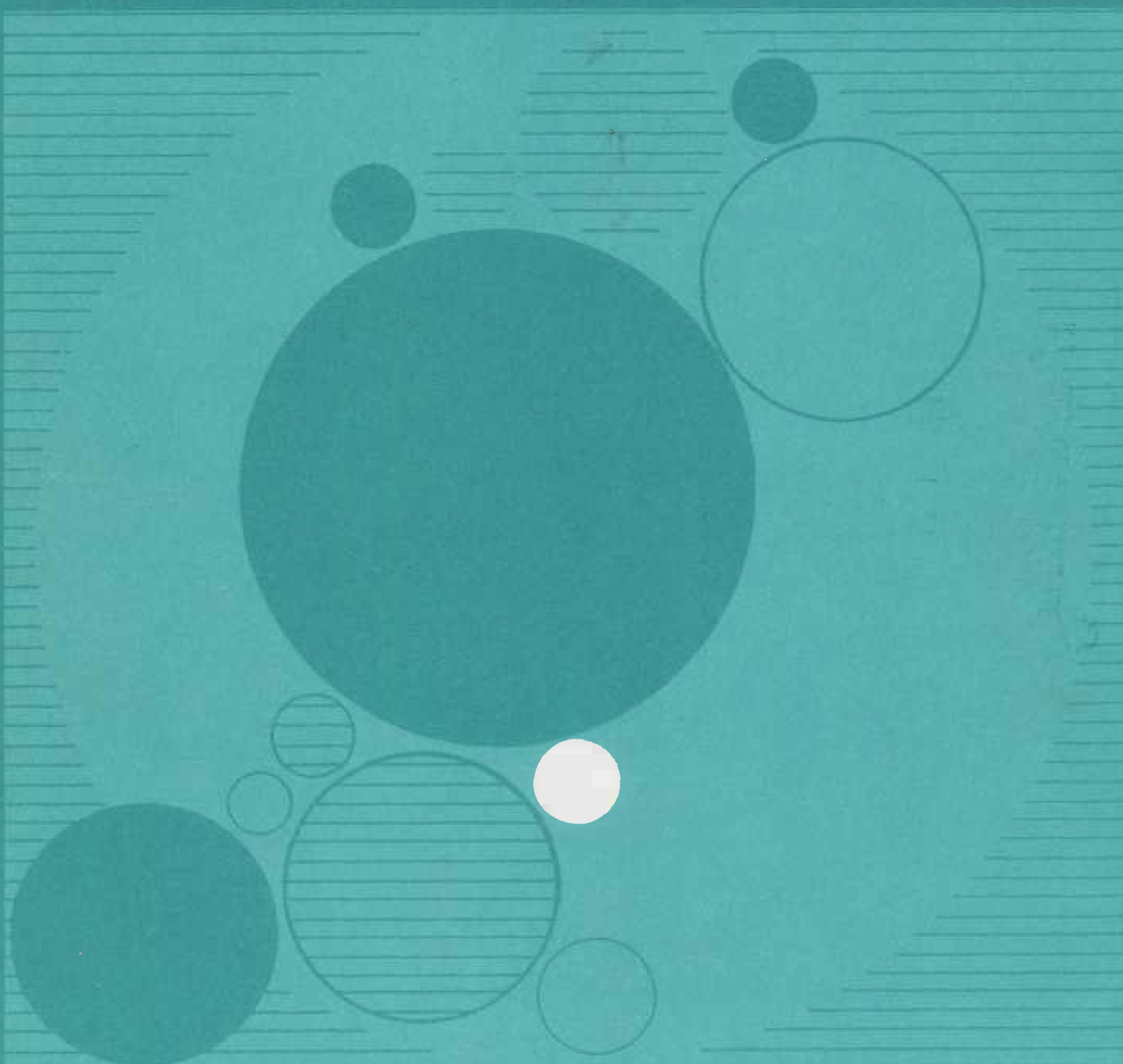
Corporate Farming

Importance, Incentives, and State Restrictions

Kenneth R. Krause



CORPORATE FARMING: Importance, Incentives, and State Restrictions. By Kenneth R. Krause. Economic Research Service, U.S. Department of Agriculture. Agricultural Economic Report No. 506.

Abstract

The number of incorporated farms in the United States rose by 140 percent from 1969-78. Tax advantages provided the chief impetus for farmers to incorporate: corporate tax rates declined in the seventies, while individual tax rates rose, mainly because of inflation. Despite the increase in farm corporations, most farms remain sole proprietorships and most incorporated farms are family farms. Nonfamily farms accounted for only 7 percent of farm sales in 1978. Eleven States had enacted legislation as of 1981 to restrict corporate farm activities (farm operations, vertical integration, and ownership of farmland).

Keywords: Corporate farming statutes, farm organization, vertical integration, landownership, real estate, economic and Federal tax incentives, State laws.

Acknowledgments

This report has drawn on an earlier report coauthored with Thomas D. Edmondson. In addition, heavy emphasis was placed on description and analysis by Dr. Neil Harl, Charles F. Curtis Distinguished Professor, Department of Economics, Iowa State University. Work by Dr. Fred L. Morrison, University of Minnesota Law School, was also helpful as was a recent ERS staff paper by Joseph W. Mayer, prepared under the supervision of J. Peter DeBraal.

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Preface

This report describes and analyzes changes in the form of business organization used by producers of agricultural commodities and incentives to incorporate the farm business. State restrictions on corporate farming are also covered. The report updates two earlier USDA studies by the Economic Research Service: *State Regulation of Corporate Farming* (AER-419, December 1978) and *Economic and Federal Tax Factors Affecting the Choice of a Legal Farm Business Organization* (AER-468, June 1981). This report surveys a continually changing area: changes in farm business organization, tax provisions, and State regulation of corporate farming will likely continue. The latest information available on corporate numbers and Federal taxes was used in preparing the material in this report through April of 1982. The section on State laws was current through mid-1981.

This report is not intended for use by farmers in choosing a legal farm business organization, nor for preparing income tax returns, nor for complying with the specific provisions of State regulations on corporate farms and integration.

Readers who need to stay current with changes in tax provisions and State regulations have a new source of information: the 14 *Agricultural Law* volumes by Neil E. Harl (Matthew Bender and Company, New York) will be frequently updated.

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Summary

Farm corporations are becoming more of a presence in American agriculture, but not necessarily a presence that threatens the dominance of family farms. The number of incorporated farms rose by 140 percent from 1969-78, yet still constituted only 2 percent of all farms and 23 percent of U.S. farm sales. Furthermore, nearly 90 percent of all farm corporations are family enterprises that chose to incorporate because of business advantages offered by the corporate form of organization.

Large corporations, however, do dominate production of a few crops and commodities (fruits, nuts, broilers, and sugarcane) and that domination in a small but highly visible niche of American agriculture has helped to foster the impression that family farms are being threatened by large conglomerates. In response to that perception, 11 States have enacted laws to check the activities of farm corporations. The purpose of the State laws is to maintain a competitive market environment for the family farm and to preserve it as the dominant type of farm production unit. None of the State laws, however, restricts the operations of family farm corporations, although several do limit the number of shareholders that can be allowed and specify how closely the shareholders must be related in order for the farm to be considered a family farm.

The chief advantages of corporations over sole proprietorships relate to taxes:

- The Federal corporate income tax is lower than that for sole proprietorships and was reduced several times in the seventies, while that for sole proprietorships rose, chiefly because of inflation induced bracket creep.

- A corporate form of organization offers better protection for the continuity of the farm when the farmer dies or retires than does a sole proprietorship. Estate taxes are lower and younger people can be brought into the farm operations more easily. By contrast, a sole proprietorship becomes subject to estate taxes on the entire farm holdings when the farmer dies and must be recapitalized every generation.

Preliminary data indicate that the rate of farm incorporation will slow in the next few years. Farms were incorporated in response to some special economic conditions of the seventies, like the tax advantages; but taxes for all were reduced in 1981 with the result of raising the net taxable income at which incorporation becomes advantageous. In addition, slower growth in farm incomes over the past few years and liberalization of the estate tax laws have made protection from taxes less of an immediate concern than it was in the midseventies.

Corporate Farming
Importance, Incentives, and State Restrictions

Kenneth R. Krause

Introduction

The number of farm corporations in the United States increased by about 140 percent during the seventies—from 21,513 in 1969 to 51,270 in 1978. Even so, corporate farms accounted for only about 2 percent of all farms and 23 percent of all farm sales in 1978. Most farm corporations (48,850) had 10 or fewer shareholders in 1978, while only 2,420 had more than 10 shareholders (fig. 1). About 90 percent of the narrowly held corporations (fewer than 10 shareholders) were family-owned farms. Some large corporations (more than 10 shareholders) are vertically integrated into farm supply and product marketing and processing activities. In 1978, family-held corporations accounted for about 70 percent of all sales by incorporated farms (fig. 2).

Changes in the tax laws in the seventies and the Economic Recovery Tax Act of 1981, coupled with some tax-related effects of inflation, enhanced the advantage of corporations over sole proprietorships and partnerships for farmers with large taxable farm incomes. Those tax changes, although not specifically enacted for their effects on farms, nevertheless offered added inducements for farms, as well as other businesses, to incorporate.

Taxation of income, however, is only one factor that farmers consider when choosing their form of business organization; other considerations may support or offset the tax advantages of incorporating, depending on producers' individual circumstances. Some of those factors include estate taxes, the liability of the operator, limits on the business activities of the farm, the life of the business, access to additional funds, organizational costs, and public disclosure of activities required by some States. Since most farm corporations have 10 or fewer shareholders, this report is limited to the production side of agriculture; little attention is given to farm supply and marketing firms that may try to acquire farm production resources as part of a diversification or integration process. The primary motivations for such firms to use a corporate form of business organization are only partially related to their farming activities.

Farm producers most likely to respond to incentives to change their business organizations will be among the 800,000 largest farms (about 35 percent of the total) that produced 90 percent of the U.S. farm products in 1978. That group excludes farms where off-farm employment provides most of the household income. Smaller and part-time farmers also have incentives to incorporate, but the benefits are not as great as those for larger farms. For the very largest farms, owned by several families or by nonfarm owners, the information and analysis presented in this report is not particularly relevant. Such farm firms have more complex organizational, operational, ownership, and Federal income tax concerns than the family size operations that are the focus of this report.

As of 1981, 11 States had enacted legislation to limit the agricultural activities of corporations. The statutes were enacted in response to a perception that corporations represent a threat to the family farm. That perception was based on the increasing size of farms and by the presence of large, highly integrated corporations involved in producing certain commodities: nuts, broilers, sugarcane and sugar beets, citrus fruits, vegetables for processing, and fluid grade milk. To varying degrees, the statutes restrict corporate farm operations by limiting the size of corporate landholdings, by restricting corporate integration into farming, and by preventing certain types of corporations from engaging in agricultural production altogether.

While we lack empirical evidence, the statutes have apparently been effective in accomplishing their narrow goals; many, however, contain exceptions and exemptions that may undermine their wider purpose of protecting the family farm. For example, the statutes emphasize restricting corporations, but none of the statutes restricts other types of farm operations (limited partnerships, for example). Available data suggest that large corporate involvement in agricultural production is not significant, either in the United States as a whole or in States enacting the statutes. In 1978, total agricultural production by nonfamily farm corporations was only 7 percent of the U.S. total. U.S. farming is still a family-run business. Proprietorships, partnerships, and family farm corporations constituted 99 percent of all farms and accounted for 93 percent of all farm sales in 1978.

Public policy to restrict large and corporate farm activities may not be in consumers' longrun interest. Among the issues facing agriculture and consumers over the next decades are how best to conserve soil, water, and other natural resources while maintaining an adequate level of food production at a reasonable cost. Large well-financed farm firms may be more effective in doing that than smaller less profitable farms.

In addition, consumer food costs can be reduced in the long run by economies of size in farm production if larger farms can produce at lower costs. Some evidence suggests that significant reductions in the cost of farm inputs can be achieved by farms that are much larger than the average size (*3, 4, 5*).[1] With a new generation of much larger farm machines becoming available, the trend for farms to become larger will likely continue, and some much larger farms may emerge.

[1] Italicized numbers in parentheses refer to sources listed at the end of each section.

Figure 1

Recent Increases in Farm Corporations are Chiefly Family Farms (10 or Fewer Shareholders)

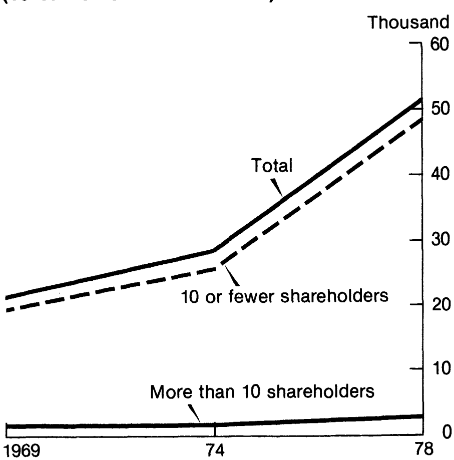
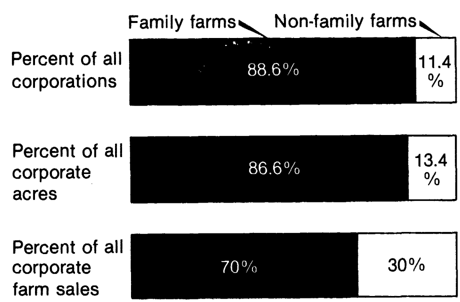


Figure 2

Family Farms Dominate U.S. Farm Operations, 1978



Source: U.S. Department of Commerce, 1978 Census of Agriculture.

A Few Words About Nomenclature

The censuses of agriculture, on which this report draws for much of its data, collected data on farm corporations, sole proprietorships, and partnerships. The corporate data were divided into two categories for censuses conducted between 1969 and 1978:

- 10 or fewer shareholders (also called narrowly held corporations)
- More than 10 shareholders (also called widely held corporations).

The 1978 Census of Agriculture collected data, in addition to those two categories, on the number of:

- Family farm corporations
- Nonfamily farm corporations.

In most analyses for years before 1978, the number of corporations with 10 or fewer shareholders is used as a proxy for family corporations and the number of corporations with more than 10 shareholders as a proxy for nonfamily farm corporations. The correlation is high, but not exact (see table). Readers should also not confuse any of those census demarcations with the securities terms of "closely held" and "publicly held" corporations. Most farm corporations are both narrowly held (10 or fewer shareholders) and closely held by a small circle of family or other investors; the stock is not publicly traded. Of the nonfamily corporations, only about 1,100 (fewer than 20 percent) have more than 10 shareholders. Presumably those are the only farm corporations that could be "publicly held "

Farm corporations, 1978

Farm corporations	Unit	Family corporations		Nonfamily corporations		All farm corporations
		10 or fewer shareholders	Total	10 or fewer shareholders	Total	
Total	Number	44,143.0	45,418.0	4,707.0	5,852.0	51,270.0
Total acres	1,000	93,014.6	104,083.1	10,581.1	16,119.6	120,202.8
Sales	$1,000	14,987.3	16,311.2	3,853.9	7,041.9	23,353.2
Total	Percent	86.1	88.6	9.2	11.4	100.0
Total acres	Percent	77.4	86.6	8.8	13.4	100.0
Sales	Percent	64.2	70.0	16.5	30.0	100.0

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Corporate and Other Large-Scale Farming

This section provides the available Federal data and assesses the relative importance of corporations in farm production. A short description of the sources of Federal data is also included. The Internal Revenue Service (IRS) collected data on farm corporations annually from 1957. The latest available data were for 1977. The 1969 Census of Agriculture was the first time that the Bureau of the Census collected information on corporations involved in farming. In the following analysis, both IRS and Census data are provided since various users of the data use both sources. Caution is necessary in comparing data since the Census reports all corporations with farm sales, while IRS reports as farms only those corporations where most of the business receipts came from farming. The IRS usually releases its annual data about 5 years after the filing date. The Census data are generally collected every 5 years; the most recent available are for 1978.

The increasing importance of corporations in farm product sales occurred during a period when a declining proportion of farms was accounting for a rising share of production. The farms producing most of the food and fiber during this period turned increasingly to the corporate form of business organization, but about 95 percent of most such corporations had 10 or fewer shareholders, and about 89 percent were family held.

Census data show that there were about 11 times as many corporations with 10 or fewer shareholders as there were corporations with more than 10 shareholders in 1969; and the narrowly held corporations had nearly five times the sales of the others. By 1978, there were over 20 times as many narrowly held corporations as there were widely held ones; and sales of the narrowly held corporations were about four times the sales of the widely held corporations. In addition, family corporations (those with both 10 or fewer and more than 10 shareholders) accounted for 88.6 percent of all farm corporations in 1978, had 86.6 percent of the acres, and made 70 percent of the sales.

Number and Significance of Corporate Farms

IRS data show that the sole proprietorship was the dominant form of farm business organization among firms filing tax returns between 1957 and 1977 (table 1). There were 3.3 million in 1957 and about 2.9 million in 1977. Partnerships were the second most numerous, but substantially fewer: 136,600 in 1957 and 105,700 in 1977. Partnerships, however, were much more numerous than corporations. The number of incorporated farm businesses filing income tax returns increased from 8,200 in 1957 to 46,300 in 1977.

During the 20-year period, the number of sole proprietorships declined by about 411,000, partnerships fell by about 31,000, and corporations increased by about 38,100. In relation to all farm business organizations filing returns, the percentage of each changed by less than 1.5 percent over the 20-year period. The growth in corporations occurred mainly among privately held ones with few shareholders. That growth reflects the trend of family farms to incorporate (see the economic and tax incentives sections of this report).

The share of business receipts of farm corporations increased substantially from 6.8 percent in 1957 to 24.5 percent in 1977. During the same period, the share of sole proprietorships declined from 80.9 to 64.6 percent, while the share of partnerships showed the least change, down from 12.3 to 10.9 percent of farm business receipts.

Some corporations have few shareholders and manage their business affairs, including financing and income tax filing, like partnerships. The shareholders are often members of the same family. Many of the closely held corporations file Federal income tax returns under Subchapter S corporation provisions.[2]

Closely held (Subchapter S) corporations, where the majority of the sales were from farming activities, were in the minority in 1963, 3,700 returns versus 12,500 for other corporations.[3] The Subchapter S corporations were still in the minority in 1971 with 8,700 returns versus 16,700 for other corporations. The data indicate, however, that farming corporations filing as closely held corporations increased at a more rapid rate than those filing under general corporation provisions. However, the proportion of business receipts received by Subchapter S corporations was about the same in 1971 as in 1966. Subchapter S corporations had about 16 percent of the receipts in 1966 and about 17 percent in 1971.

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[2] Under Subchapter S provisions, corporations with 10 or fewer shareholders (15 under the 1976 Tax Reform Act and 25 under the Economic Recovery Tax Act of 1981) are treated as partnerships for Federal income tax purposes if the income is passed directly to the owners who pay the income taxes; no corporate income tax is paid.

[3] Based on IRS data provided in *Statistics of Income: Business Tax Returns* (various issues) and unpublished IRS "Source Book of Statistics, Corporation Income Tax Returns." Data have not been provided by the IRS on Subchapter S corporations since 1971.

The Census of Agriculture is based on different concepts than the IRS reports. Census data will probably be increasingly used as a source of information for analyzing the national importance of corporate farming. Data for three time points are now available and a fourth point will be available from the 1982 Census of Agriculture. Despite the conceptual differences, the 1969 census and IRS numbers were similar—21,513 census farm corporations and 20,466 IRS farm corporations.

The census showed about 14 percent of farm sales were made by corporations with sales of $2,500 or more in 1969 while IRS showed about 15.3 percent. The 1974 census recorded 28,442 farm corporations, while IRS recorded about 37,300. The census reported in 1974 that about 20 percent of farm sales were made by corporations with farm sales of $2,500 or more; IRS reported about 20.6 percent. The census reported 51,270 farm corporations in 1978, while IRS recorded about 46,300 in 1977.

The 1969 census reported 19,716 corporations with 10 or fewer shareholders, substantially more than IRS's 6,503 Subchapter S corporations; other IRS farm corporations (13,963) were substantially greater than the 1,797 corporations with more than 10 shareholders reported by the census. Such comparisons beyond 1971 are not possible since IRS did not release the data. The difference probably results from many corporations with 10 or fewer shareholders electing not to file tax returns under Subchapter S.

Table 1—Tax returns and business receipts by form of organization

Year	Tax returns				Business receipts			
	Sole proprietorships	Partnerships	Corporations[1]	Total	Sole proprietorships	Partnerships	Corporations[1]	Total
	Thousands				*Billion dollars*			
1957	3,343.2	136.6	8.2	3,488.0[2]	22.4	3.4	1.9	27.7[3]
1960	3,358.6	126.9	11.8	3,497.3	25.5	3.6	2.8	31.9
1965	3,063.6	116.3	18.5	3,198.4	29.9	4.1	4.4	38.4
1969	3,089.2	108.3	20.5	3,218.5	37.6	5.5	7.8	50.9
1970	2,905.9	111.3	24.1	3,041.3	39.1	6.8	9.0	54.9
1971	2,941.4	109.3	25.4	3,076.1	40.9	6.5	8.4	55.8
1972	3,007.2	102.3	27.4	3,137.0	48.6	8.1	9.5	66.2
1973	3,203.0	111.4	34.5	3,348.9	62.6	11.5	17.9	92.0
1974	3,178.2	109.6	37.3	3,325.1	63.4	11.2	19.4	94.0
1975	3,122.4	110.1	39.6	3,272.2	65.3	11.5	21.2	98.0
1976	3,218.3	106.7	42.3	3,367.3	73.5	11.6	23.5	108.6
1977	2,931.8	105.7	46.3	3,083.8	69.4	11.7	26.3	107.4
				Percent				
1957	95.9	3.9	0.2	100.0	80.9	12.3	6.8	100.0
1960	96.0	3.6	.4	100.0	79.9	11.3	8.8	100.0
1965	95.8	3.6	.6	100.0	77.9	10.7	11.4	100.0
1969	96.0	3.4	.6	100.0	73.9	10.8	15.3	100.0
1970	95.6	3.6	.8	100.0	71.2	12.4	16.4	100.0
1971	95.6	3.6	.8	100.0	73.3	11.6	15.1	100.0
1972	95.8	3.3	.9	100.0	73.5	12.2	14.3	100.0
1973	95.7	3.3	1.0	100.0	68.4	12.2	19.4	100.0
1974	95.6	3.3	1.1	100.0	67.5	11.9	20.6	100.0
1975	95.4	3.4	1.2	100.0	66.6	11.8	21.6	100.0
1976	95.5	3.2	1.3	100.0	67.7	10.7	21.6	100.0
1977	95.1	3.4	1.5	100.0	64.6	10.9	24.5	100.0

[1] Corporations were classified and included as farm corporations when the major portions of all business receipts were from farming.
[2] Farms estimated at 69 percent of agricultural, forestry, and fisheries corporations.
[3] Farm business receipts estimated at 67 percent of those for agricultural, forestry, and fisheries corporations.
Source: (*6*).

Table 2—Corporations by States with or without corporate farming laws in 1978, ranked by number reporting with more than 10 shareholders, 1978 percent change 1969-1978

State	More than 10 shareholders[1]						10 or fewer shareholders[1]						All			
	Number 1978	Acres 1978	Sales 1978	Change in number			Number 1978	Acres 1978	Sales 1978	Change in number			Number 1978	Change in number		
				1974-78[2]	1969-74[2]	1969-78				1974-78[2]	1969-74[2]	1969-78		1974-78[2]	1969-74[2]	1969-78
	No.	*Thou.*	*Mil. dols.*	*Percent*			*No.*	*Thou.*	*Mil. dols.*	*Percent*			*No.*	*Percent*		
States with corporate farming laws:																
Texas	187	2,839	814	14.0	21.5	38.5	2,505	9,600	1,922	104.0	16.0	136.5	2,692	86.8	20.7	125.5
Iowa	86	83	61	83.0	-30.8	26.5	2,582	1,539	678	155.1	65.1	366.9	2,668	145.4	75.0	329.6
Nebraska	65	500	136	62.5	-4.7	54.8	2,329	5,633	1,209	108.7	80.8	277.5	2,394	102.7	79.2	263.3
Wisconsin	60	104	74	-13.0	11.2	-3.2	1,495	867	305	90.2	55.0	194.9	1,555	76.5	54.8	173.3
Missouri	52	62	26	57.6	3.1	62.5	1,587	1,236	255	121.3	39.4	208.8	1,639	108.2	44.1	200.2
Minnesota	47	56	42	2.2	-6.1	-4.1	1,349	1,172	405	99.8	64.2	228.2	1,396	88.9	60.7	203.5
Kansas	42	48	318	27.3	-19.5	2.4	1,436	2,735	1,360	128.3	119.1	400.3	1,478	113.9	110.7	350.6
South Dakota	33	132	23	135.7	0	135.7	784	3,001	185	84.0	71.7	216.1	817	84.0	69.5	211.8
Oklahoma	24	56	56	26.3	5.5	33.3	651	1,381	451	126.8	55.9	253.8	675	110.3	58.9	234.2
North Dakota	6	16	2	50.0	-50.0	-25.0	125	233	27	101.6	-30.3	40.4	131	79.5	24.7	35.0
10-State total	602	3,896	1,552	28.4	0	28.4	14,843	27,397	6,797	113.9	55.2	232.1	15,445	102.0	54.8	212.7
States without corporate farming laws:																
California	356	1,324	851	17.5	39.6	64.0	3,516	5,748	2,846	57.8	29.7	104.8	3,872	48.9	34.5	100.2
Florida	212	1,417	516	22.5	33.0	63.1	2,522	3,082	1,148	37.7	18.9	63.9	2,734	33.6	23.2	63.8
Illinois	82	113	49	57.7	-17.4	30.2	1,266	855	332	166.0	-11.0	136.6	1,348	149.2	-9.5	125.4
North Carolina	71	91	63	31.5	-22.8	1.4	1,488	667	321	183.4	-45.3	54.8	1,559	155.2	-40.7	51.2
Ohio	67	38	27	28.8	0	28.8	1,150	484	234	69.4	31.3	122.4	1,217	61.8	32.2	113.9
Louisiana	65	332	54	1.6	-32.6	-31.6	683	861	131	81.6	.8	83.1	748	65.9	-3.6	59.8
Washington	63	266	60	31.2	26.3	65.8	1,546	2,796	682	72.2	79.6	209.2	1,609	66.9	79.2	199.1
Indiana	61	55	34	90.6	17.9	56.4	1,767	993	377	125.4	43.8	224.2	1,828	119.4	42.6	235.4
Arizona	60	2,318	121	-4.8	61.5	53.8	579	3,620	530	59.1	7.6	71.3	639	45.2	16.7	69.5
Colorado	57	601	299	18.8	20.0	42.5	1,257	4,897	950	48.8	55.5	120.9	1,314	43.6	50.2	115.8
Montana	54	739	25	116.0	4.1	125.0	1,958	15,424	284	65.4	64.9	172.7	2,012	64.6	64.7	171.2
Georgia	53	134	68	29.3	17.1	51.4	1,044	873	231	157.1	-10.1	131.0	1,097	141.1	-9.6	125.3
Arkansas	50	47	100	13.6	21.4	-10.7	1,259	1,482	340	123.2	37.5	207.1	1,309	108.1	35.0	180.9
Oregon	44	607	45	15.8	123.5	158.8	1,012	3,200	332	76.3	40.3	147.4	1,056	70.0	45.8	147.9
Pennsylvania	42	41	96	20.0	12.9	35.5	867	254	242	70.3	42.1	142.2	909	60.9	45.2	133.7

– –Continued

See footnotes at end of table.

Table 2—Corporations by States with or without corporate farming laws in 1978, ranked by number reporting with more than 10 shareholders, 1978 percent change 1969-1978—Continued

State	More than 10 shareholders[1]						10 or fewer shareholders[1]						All			
	Number 1978	Acres 1978	Sales 1978	Change in number 1974-78[2]	1969-74[2]	1969-78	Number 1978	Acres 1978	Sales 1978	Change in number 1974-78[2]	1969-74[2]	1969-78	Number 1978	Change in number 1974-78[2]	1969-74[2]	1969-78
	No.	*Thou.*	*Mil. dols.*	*Percent*			*No.*	*Thou.*	*Mil. dols.*	*Percent*			*No.*	*Percent*		
Hawaii	40	313	145	-27.3	37.5	0	286	660	169	144.4	30.0	217.8	326	79.1	40.0	150.8
Mississippi	37	104	39	19.4	29.1	54.2	885	1,282	239	92.4	16.1	123.5	922	82.6	20.2	119.5
Idaho	35	95	33	52.2	43.7	118.8	1,106	2,622	525	66.6	32.5	120.8	1,141	60.9	37.1	120.7
New York	34	26	17	0	78.9	78.9	1,200	497	274	37.3	68.4	131.2	1,234	33.1	72.3	129.4
Wyoming	33	1,646	12	65.0	11.1	83.3	735	9,619	184	39.2	29.7	80.6	768	38.9	30.1	80.7
Utah	26	97	4	52.9	-5.5	44.4	453	1,784	112	54.6	72.3	166.5	479	53.0	66.5	154.8
Alabama	25	26	35	13.6	-4.3	8.7	609	415	129	176.8	-4.7	163.6	634	144.8	2.0	149.6
Michigan	25	32	25	66.7	-44.4	-7.4	762	372	176	96.9	54.8	204.8	787	89.2	50.2	184.1
New Mexico	24	1,522	65	-25.0	33.3	0	530	8,598	245	82.8	41.4	158.5	554	64.4	47.2	141.9
South Carolina[3]	24	31	22	100.0	-25.0	50.0	429	412	85	95.0	-35.6	25.4	453	88.0	-32.7	26.5
Virginia	23	39	20	-17.9	-20.0	-34.3	1,231	536	166	222.3	-8.3	195.2	1,254	193.0	-5.3	177.4
Maryland	22	15	28	22.2	5.8	29.4	492	217	94	87.1	39.1	160.3	524	77.2	40.8	149.5
Massachusetts	22	22	25	0	37.5	37.5	343	64	55	26.1	51.1	90.6	365	22.5	52.0	86.2
Tennessee	20	34	12	53.8	-27.7	11.1	570	234	66	237.3	-34.4	120.9	590	190.6	-26.4	113.8
Connecticut	19	14	22	0	52.6	111.1	192	38	44	24.7	40.0	74.5	211	21.3	46.2	77.3
Kentucky	19	23	7	90.0	-60.0	-24.0	706	304	90	133.8	-16.5	95.0	725	115.1	-12.9	87.3
Nevada	12	384	11	0	100.0	100.0	203	2,653	76	78.1	25.2	123.1	215	62.9	36.1	121.6
New Jersey	12	5	2	9.1	10.0	20.0	568	121	100	69.0	39.4	135.7	580	63.8	41.0	131.1
Delaware	7	14	14	75.0	0	75.0	143	100	63	85.7	54.0	186.0	150	76.5	57.4	177.8
West Virginia	7	7	5	16.7	0	16.7	133	87	18	101.5	4.7	111.1	140	84.2	10.1	102.9
Maine	5	7	6	-16.7	50.0	25.0	239	136	103	70.7	19.6	104.3	244	61.6	24.8	101.6
Vermont	5	3	1	0	150.0	150.0	140	66	18	97.2	57.7	211.1	145	85.9	66.0	208.5
Alaska	3	129	1	200.0	0	50.0	12	111	2	20.0	42.8	71.4	15	36.4	22.2	66.7
New Hampshire	2	[4]	[5]	0	0	0	82	25	25	46.4	30.2	90.7	84	42.4	31.1	86.7
Rhode Island	0	0	(D)	-100.0	-50.0	-100.0	44	9	(D)	41.9	40.9	100.0	44	33.3	43.5	91.3
40-State total	1,818	12,711	2,959	21.9	12.2	36.9	34,007	76,199	12,038	81.5	22.9	123.0	35,825	472.3	25.5	116.1
U.S. total	2,420	16,607	4,512	23.5	9.0	34.7	48,850	103,596	18,841	90.2	30.2	147.8	51,270	80.3	32.2	138.3

[1] Includes both public and private corporations.
[2] The 1974 Agricultural Census did not classify about 1,000 farm corporations into the more or fewer than 10 shareholders groups and they were not included in the individual groups but are included in the all group percent change.
[3] South Carolina enacted legislation that provides for taxing property of certain corporations differently starting in 1982.
[4] Less than 500 acres.
[5] Less than $500,000 dollars.

(D) = Figure not disclosed to ensure privacy of individuals.
NOTE: All figures exclude abnormal and "other" farms.

Sources: U.S. Department of Commerce, Bureau of the Census, *1969 Census of Agriculture,* Vol. 2, ch.3. *1974 Census of Agriculture,* Vol. 4, part 5. *1978 Census of Agriculture,* Vol. 1, parts 1-51.

Table 3—Farm corporations as a percentage of all farms with sales of $2,500 or more, by State

States[1]	More than 10 shareholders									10 or fewer shareholders											
	Number			Acres			Sales			Number			Acres			Sales			All sales		
	1969	1974	1978	1969	1974	1978	1969	1974	1978	1969	1974	1978	1969	1974	1978	1969	1974	1978	1969	1974	1978
	Percent																				
States with corporate farming laws:																					
Texas	0.1	0.1	0.1	1.9	2.5	2.2	6.3	14.9	9.9	0.9	1.2	1.9	5.0	4.5	7.4	16.7	15.9	23.4	23.0	30.8	33.3
Iowa	[2]	.1	[2]	.2	.2	.2	.7	.8	.7	.4	.9	2.2	1.0	2.0	4.6	2.1	2.2	8.3	2.8	4.6	9.0
Nebraska	.1	.1	.1	1.0	1.1	1.1	1.1	3.6	2.6	1.0	1.8	3.8	5.9	8.6	12.4	11.5	15.1	23.5	12.6	18.7	26.1
Wisconsin	.1	.1	[2]	.6	.7	.6	1.2	2.7	2.1	.7	1.6	2.0	2.0	3.3	5.1	4.0	6.0	8.8	5.2	8.7	11.0
Missouri	[2]	[2]	.1	.1	.2	.2	.3	1.2	.8	.6	.9	1.6	1.6	2.6	4.3	3.4	5.0	7.7	3.7	6.2	8.5
Minnesota	.1	.1	.1	.2	.2	.2	.6	.9	.9	.5	.8	1.5	.9	2.1	4.5	3.8	6.0	9.0	4.4	6.9	9.9
Kansas	.1	[2]	.1	.2	.2	.1	4.7	4.1	6.4	.4	.9	2.1	1.1	3.0	5.8	9.9	16.7	27.2	14.6	20.7	33.6
South Dakota	[2]	[2]	.1	.1	1.1	.3	.7	1.3	1.2	.6	1.1	2.1	3.6	5.5	7.7	3.6	6.8	9.7	4.3	8.1	10.9
Oklahoma	[2]	[2]	[2]	[2]	.2	.2	4.1	2.5	2.4	.4	.6	1.1	1.5	2.4	4.3	8.1	13.1	19.3	12.2	15.6	21.7
North Dakota	[2]	[2]	[2]	[2]	[2]	[2]	.2	.2	.1	.2	.2	.3	.4	.3	.6	.8	.7	1.5	1.0	.9	1.6
10-State total	.1	.1	.1	.4	.6	.5	2.0	3.2	2.7	.6	1.0	1.9	2.3	3.4	5.7	.6	8.8	13.8	.8	12.1	16.6
States without corporate farming laws:																					
California	.4	.6	.6	4.5	4.6	4.2	6.2	9.8	9.2	3.2	4.4	6.2	10.5	12.4	18.4	25.4	25.9	30.6	31.6	35.7	39.8
Florida	.6	.8	.8	11.6	13.1	11.4	10.7	17.6	17.0	7.7	8.7	9.0	20.3	20.2	24.8	34.2	34.8	37.9	44.9	52.4	54.9
Illinois	.1	.1	.1	.2	.4	.4	.6	.9	.8	.5	.5	1.3	1.1	1.1	2.9	3.1	2.8	5.6	3.7	3.6	6.4
North Carolina	.1	.1	.1	.8	.8	.9	.8	2.1	2.1	1.5	.8	2.3	3.4	3.4	5.5	6.6	6.5	10.7	5.9	8.6	12.8
Ohio	.1	.1	.1	.1	.1	.2	1.2	1.3	1.0	.8	1.0	1.6	1.5	1.9	3.3	4.9	6.3	8.2	6.1	7.6	9.2
Louisiana	.5	.3	.3	4.0	3.9	3.8	3.2	5.8	4.5	1.9	2.0	3.0	5.9	6.9	10.0	6.2	9.4	10.8	9.4	15.2	15.3
Washington	.2	.2	.3	.3	.9	1.9	5.4	6.2	2.9	2.3	4.3	6.3	7.9	6.5	19.9	13.5	19.8	32.8	18.9	26.0	35.7
Indiana	.1	[2]	.1	.1	.2	.3	.9	.8	1.0	.8	1.1	2.5	1.5	2.7	6.1	4.4	6.8	11.2	5.3	7.7	12.2
Arizona	.9	1.5	1.2	11.7	13.7	13.5	5.1	14.8	9.4	7.9	8.4	11.6	19.7	19.7	21.1	49.4	43.8	41.2	54.5	58.6	50.6
Colorado	.2	.2	.2	1.6	1.8	1.8	3.8	17.5	11.6	2.7	4.0	5.6	9.8	12.4	14.9	35.3	23.7	36.7	15.6	41.3	48.3
Montana	.1	.1	.3	.9	.9	1.3	1.5	2.3	4.6	3.5	5.9	9.3	15.4	20.4	27.3	14.1	18.3	24.1	15.6	20.6	28.7
Georgia	.1	.1	.1	.4	.5	1.1	.5	2.6	2.9	1.2	1.1	2.7	4.0	5.0	7.2	5.7	6.6	9.8	6.2	9.2	12.7
Arkansas	.2	.1	.1	.7	.5	.3	1.1	3.5	4.0	1.2	1.8	3.1	4.9	6.9	10.6	9.7	8.8	13.6	10.8	12.3	17.6
Oregon	.1	.2	.2	1.2	3.3	3.6	.7	4.5	3.6	2.4	3.4	4.9	14.3	14.2	18.8	14.9	18.7	26.2	15.6	23.2	29.8

--Continued

See footnotes at end of table.

Table 3—Farm corporations as a percentage of all farms with sales of $2,500 or more, by State—Continued

States[1]	More than 10 shareholders									10 or fewer shareholders									All sales		
	Number			Acres			Sales			Number			Acres			Sales					
	1969	1974	1978	1969	1974	1978	1969	1974	1978	1969	1974	1978	1969	1974	1978	1969	1974	1978	1969	1974	1978
										Percent											
Pennsylvania	.1	.1	.1	.5	.5	.5	2.8	3.5	4.4	.9	1.4	2.0	2.1	2.6	3.3	6.5	9.3	11.2	9.3	12.8	15.6
Hawaii	1.8	2.6	1.4	34.3	41.8	16.1	55.0	81.3	34.8	3.9	5.6	9.9	26.0	14.2	34.0	28.2	6.7	40.5	83.2	88.1	75.3
Mississippi	.1	.1	.1	.7	.7	.9	1.4	4.4	2.3	1.5	1.8	2.9	5.7	7.2	10.8	10.2	10.1	14.3	11.6	14.5	16.6
Idaho	.1	.1	.2	.8	.7	.7	2.9	1.4	2.0	2.6	3.4	5.3	14.7	16.3	20.0	18.8	19.0	32.1	21.7	20.4	34.1
New York	.1	.1	.1	.2	.3	.3	1.1	2.1	.9	1.5	2.7	3.4	2.5	4.3	5.7	8.6	12.1	14.7	9.7	14.2	15.6
Wyoming	.3	.3	.5	2.2	3.2	5.6	1.2	1.2	2.3	5.7	2.2	10.5	29.8	29.2	32.6	23.8	21.6	34.6	25.0	22.8	36.9
Utah	.2	.2	.3	.8	1.3	1.1	.9	2.6	.9	2.0	6.8	4.6	12.1	19.9	20.6	11.1	16.4	24.5	12.0	19.0	25.4
Alabama	.1	.1	.1	.3	.4	.3	.9	2.4	2.3	.8	.8	1.8	2.0	2.7	4.2	3.2	6.6	8.3	4.1	9.0	10.6
Michigan	.1	[2]	.1	.2	.2	.3	.5	.6	1.3	.6	.8	1.6	1.5	2.1	3.6	5.2	6.7	9.2	5.7	7.3	10.5
New Mexico	.3	.4	.3	3.5	5.5	3.9	1.6	11.9	8.3	2.7	3.7	5.8	17.3	15.4	22.1	31.9	25.8	31.4	33.5	37.7	39.7
South Carolina	.1	.1	.1	.8	.5	.6	.6	1.2	2.6	2.0	1.3	2.3	4.7	4.5	7.6	6.7	7.1	10.0	7.3	8.3	12.6
Virginia	.1	.1	.1	.7	.8	.4	1.5	1.6	1.6	1.3	1.0	3.2	3.9	3.8	6.2	7.4	10.5	13.0	8.9	12.1	14.6
Maryland	.1	.2	.2	.9	.7	.6	1.3	2.2	3.5	1.6	2.3	3.6	3.8	6.1	8.7	7.3	11.0	11.8	8.6	13.2	15.3
Massachusetts	.4	.7	.6	5.5	3.0	4.1	7.7	11.1	11.8	4.9	8.5	8.9	7.4	11.5	11.9	21.8	28.8	26.1	29.5	39.9	37.9
Tennessee	[2]	[2]	[2]	.4	.3	.3	1.0	1.0	.9	.6	.3	.9	1.1	.9	2.1	3.1	2.8	4.8	4.1	3.8	5.7
Connecticut	.3	.8	.7	3.2	3.5	3.5	12.8	15.3	9.7	3.8	6.3	6.9	7.0	8.0	9.6	18.1	15.5	19.4	30.9	30.8	29.1
Kentucky	[2]	[2]	[2]	.2	.1	.2	.3	.2	.4	.6	.4	.8	1.3	1.4	2.2	2.5	3.5	5.0	2.8	3.7	5.4
Nevada	.4	.7	.6	7.1	9.9	4.3	6.3	4.5	5.6	5.7	7.0	10.0	34.1	27.0	29.4	24.9	34.2	38.4	31.2	38.7	44.0
New Jersey	.2	.2	.2	.4	.9	.5	1.6	1.9	.6	4.3	6.1	8.5	9.2	11.3	13.0	18.2	23.3	28.3	19.8	25.2	28.9
Delaware	.1	.1	.2	1.8	.5	2.1	5.1	2.6	4.3	1.8	2.6	4.5	6.6	12.2	15.1	8.3	18.3	19.4	13.4	20.9	23.7
West Virginia	.1	.1	.1	.2	.1	.3	.6	2.2	2.7	.9	1.1	1.4	1.7	2.3	3.4	7.5	7.6	9.7	8.1	9.8	12.4
Maine	.1	.1	.1	.5	1.6	.5	1.9	4.2	1.5	2.3	3.1	4.8	7.0	8.6	10.6	11.0	11.6	26.1	12.9	15.8	27.6
Vermont	[2]	.1	.1	.1	1.0	.2	.1	.5	.2	.9	1.6	2.9	1.6	11.2	4.5	2.3	5.6	6.6	2.4	6.1	6.8
Alaska	1.4	.5	1.4	3.2	.1	16.1	[2]	[2]	7.7	4.7	5.0	5.4	30.9	26.3	13.9	8.2	23.1	20.5	8.2	23.1	28.2
New Hampshire	.1	.1	.1	.1	.3	[2]	(D)	8.8	.3	2.6	3.8	4.6	3.4	5.0	6.6	9.5	18.2	28.7	9.5	27.0	29.0
Rhode Island	.2	.2	0	.2	2.2	0	[2]	[2]	(D)	4.8	7.4	8.5	8.6	11.2	18.0	25.8	32.8	(D)	25.8	32.8	(D)
40-State total	.3	.3	.3	2.7	3.1	2.7	3.8	6.5	4.7	2.6	3.4	4.9	9.2	10.0	12.8	13.9	15.5	19.7	17.1	22.0	24.4
U.S. total	.2	.3	.3	2.2	2.6	2.3	3.4	5.8	4.3	2.2	2.9	4.3	7.8	8.7	11.4	12.4	14.2	18.5	15.3	20.0	22.8

[1] States are ranked according to ranking in table 2.
[2] Less than 0.05 percent.

(D) = figure not disclosed to ensure privacy of individuals.
Note: All figures exclude abnormal and "other" farms, which include chiefly institutional farms, experimental and research farms, Indian reservations, and cooperatives.
Sources: U.S. Department of Commerce, Bureau of the Census, *1969 Census of Agriculture*, Vol. 2, part 3. *1974 Census of Agriculture*, Vol. 4, part 5. *1978 Census of Agriculture*, Vol. 1, part 51.

For example, a 1968 study of California corporations showed that only 23 percent of corporations with 10 or fewer shareholders filed under Subchapter S (*2*).

In 1978, the 10 States with restrictive statutes on farm corporations reported 15,445 corporations, of which 14,843 had 10 or fewer shareholders (table 2). Texas, with 187, was the only restrictive statute State with more than 100 widely held farm corporations. The 40 States without statutes had 35,825 farm corporations, of which 34,007 had 10 or fewer shareholders. Among these 40 States, California (with 356) and Florida (with 212) were the only ones with more than 100 widely held farm corporations.

The number of corporate farms, as recorded by the Bureau of the Census, increased from 21,513 in 1969 to 51,270 in 1978. The increase was 212.7 percent in States with restrictive statutes, while the increase for the other 40 States was 116.1 percent. No State showed a decline in the number of farm corporations between 1969 and 1978. All States except Colorado, Connecticut, Massachusetts, New York, Rhode Island, Utah, and Washington showed larger percentage increases in the number of corporate farms in 1974-78 than in 1969-74.

In 1978, as a percentage of farms with sales of $2,500 or more, corporations with more than 10 shareholders accounted for about 2.7 percent of sales in the 10 States with restrictions, and about 4.7 percent of sales in the other 40 States (table 3). Corporations with 10 or fewer shareholders accounted for about 13.8 percent of sales in the 10 restrictive States in 1978 and for about 19.7 percent in the remaining 40 States. In States with corporate farm laws, widely held corporations accounted for less than 3 percent of all farm sales except in Texas and Kansas; widely held Texas corporations accounted for about 10 percent of State farm sales. By contrast, widely held corporations exceeded 3 percent of all State farm sales in 17 of the States without statutes in 1978.

While farm corporations held large acreages in some States without restrictive statutes in 1978, the acreage held by all farm corporations was less than 18 percent of the total acreage held by farms with sales of $2,500 or more (table 3). The largest concentration of corporate landholdings in 1978 was in Hawaii, where corporations held about 50 percent of all land in farms. In the Corn Belt, corporate-held farmland accounted for less than 12 percent of the land area in farms and widely held corporations held only a small part of that.

Corporations and partnerships in 1974 and 1978 accounted for a larger proportion of farms as sales increased (fig. 3). Sole proprietorships, however, accounted for 67.8 percent of the farms with sales of $100,000 or more in 1978, a small decline from 71.1 percent in 1974. Most farm corporations (54.4 percent of the narrowly held and 73.7 percent of the widely held) had sales of $100,000 and over in 1978 while 54.8 percent of the sole proprietorships had sales of less than $20,000 in 1978 (fig. 4).

Commodity Specialization

Widely held corporations were not dominant in the national sales of any major commodity in 1974 (table 4).[4] Widely held corporations made more than 10 percent of all sales in only 6 of the 14 major commodity groups. They made nearly 20 percent of the sales of other field crops (sugar crops, potatoes, popcorn, sunflower, etc.); 18.2 percent of the sales of nursery and greenhouse products; 13.1 percent of the sales of fruits, nuts, and berries; 12.5 percent of the sales of vegetables, sweet corn, and melons; 11.5 percent of the sales of other livestock and livestock products (horses, ponies, goats, fur-bearing animals, etc.); and 10.5 percent of the sales of cattle and calves. Only two commodity groups were produced by more than 500 large corporations: 783 sold cattle and calves and 524 sold cash grain. The cash grain firms, however, sold only 0.4 percent of those commodities.

Publicly held corporations sold over 50 percent of the tobacco in the Northeast. Publicly held and privately held corporations with more than 10 shareholders sold about 22.3 percent of the cattle and calves in the West South Central States, 19.5 percent of the other field crops in the South Atlantic States, and 15.7 percent of the other field crops in the West South Central States. In all other cases, publicly held corporations made less than 15 percent of the sales in a region. Publicly held and widely held corporations sold more than 5 percent of sales of seven of the commodity groups in the Pacific States, six commodity groups in the Mountain States, and three commodity groups in the West South Central States, the South Atlantic States, and the West North Central States.

Large corporations have specialized in certain commodities: broilers, eggs, fruits, nuts, and vegetables. Those

[4] The classification of corporations used in this section is different from other sections in this report in that the 1974 special corporate farm census identified corporations that were publicly owned as well as those with more than 10 shareholders but privately owned.

Figure 3

Number of Farms, By Sales Class

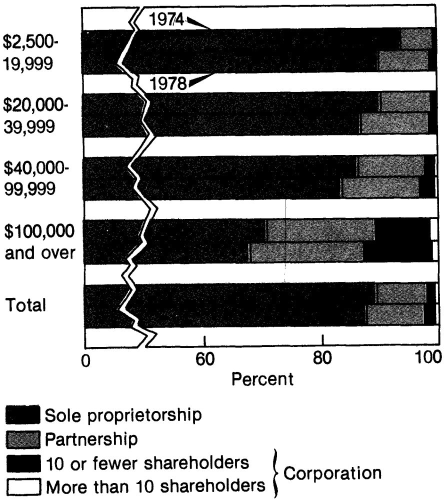
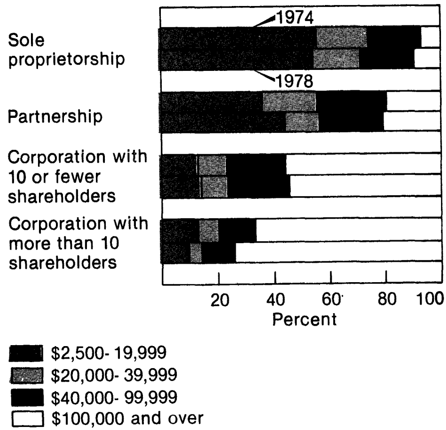


Figure 4

Distribution of Farm Sales, by Type of Farm Organization



commodities have generally not been among the most important ones in the States where restrictions on corporate farming have been enacted. Publicly held corporations were important in certain commodities in some States (table 5); for instance, Massachusetts and Connecticut (tobacco), Hawaii (fruits, nuts, berries), Colorado and Texas (cattle and calves), and Wisconsin (other livestock and livestock products).

Vertical Integration and Contracting

Some States, besides limiting corporate farming, limit certain aspects of vertical integration into farming and contract farming. The most general restriction forbids vertical integration within a firm between farm production and some combination of input supply, marketing, or processing.

Farming activities of 410 vertically integrated firms were concentrated in crops and livestock that favor large operations and allow control over product perishability, uniformity, and timely availability (*3*). Beef cattle were produced by more than 25 percent of the firms and were the most common farming enterprise, followed by vegetables, fruits, and poultry (other than broilers). Most of the integration in livestock and poultry was by input firms, suggesting that an important motivation for integration was to provide an outlet for manufactured feeds. Vertical integration into crop and dairy farming was mostly by firms involved in processing and distribution.

Corporations apparently account for most of the vertical integration and contracting, both of which increased by over 50 percent from 19 percent of farm output in 1960 to 22 percent in 1970 and to about 30 percent in 1980 (*1*).[5] Contract production was, however, much more prevalent

[5] Contracting probably involved both corporations and other forms of business organization with most of the farm product procurers using a corporate form of business organization; farm producers who enter into contractual arrangements include corporations as well as partnerships and sole proprietors.

Table 4—Widely held farm corporations (more than 10 shareholders), by region and commodity, 1974

Commodity	Northeast				East North Central				West North Central				South Atlantic				East South Central			
	Privately held		Publicly held and other		Privately held		Publicly held and other		Privately held		Publicly held and other		Privately held		Publicly held and other		Privately held		Publicly held and other	
	Number	*Percent of farm sales*[1]	*Number*	*Percent of farm sales*[1]	*Number*	*Percent of farm sales*[1]	*Number*	*Percent of farm sales*[1]	*Number*	*Percent of farm sales*[1]	*Number*	*Percent of farm sales*[1]	*Number*	*Percent of farm sales*[1]	*Number*	*Percent of farm sales*[1]	*Number*	*Percent of farm sales*[1]	*Number*	*Percent of farm sales*[1]
Crops:																				
Cash grain	16	0.2	8	0.08	43	0.2	48	0.1	63	0.5	27	0.7	32	1.5	32	1.8	13	0.2	13	0.1
Tobacco	1	(D)	24	50.9	0	0	0	0	0	0	0	0	9	(D)	8	.4	5	(D)	1	.03
Cotton	0	0	0	0	0	0	0	0	2	.01	0	0	10	.03	4	.01	9	.05	16	0
Field seeds, hay, forage and silage	7	.1	4	.1	8	0.6	16	.1	26	.09	9	0	18	.4	13	.1	3	(D)	6	(D)
Other field crops[2]		(D)	3	.3	6	.6	9	.8	2	0	2	0	13	(D)	10	19.5	0	0	3	(D)
Vegetables, sweet corn, melons	3	0	6	1.5	18	1.0	24	5.8	2	0	2	0	10	(D)	17	5.5	1	(D)	3	7.2
Fruits, nuts, berries	13	1.7	7	2.0	8	.9	1	0	4	6.2	0	0	58	5.4	58	10.2	0	0	0	0
Nursery and greenhouse products	17	8.7	12	(D)	28	3.8	16	(D)	13	13.3	2	(D)	14	1.9	26	(D)	0	0	2	(D)
Livestock, poultry, and poultry products:																				
Poultry products and poultry:	9	2.1	17	5.5	14	3.8	27	5.4	23	1.4	30	7.8	26	1.7	42	(D)	13	2/3	15	6.6
Dairy products	14	(D)	2	(D)	6	0	0	0	9	0	2	(D)	7	1.1	0	0	2	(D)	0	0
Sheep, lambs, and wool	3	.2	1	.2	3	0	3	.1	11	.9	1	(D)	4	.1	6	(D)	0	0	0	0
Hogs and pigs	6	.2	2	.1	20	.1	18	(D)	40	.2	12	(D)	16	.8	8	.7	5	.3	3	.4
Cattle and calves	22	1.0	7	.1	31	.2	33	.5	90	2.5	23	2.1	72	3.8	31	1.6	25	.6	17	.5
Other livestock and livestock products[3]	2	(D)	6	(D)	9	1.5	9	3.0	13	.1	5	(D)	10	.8	6	1.9	4	(D)	2	0
Total of all commodities	60	1.3	75	2.3	107	.4	113	.9	133	.8	84	.8	160	1.6	176	3.8	40	.6	36	1.4

– –Continued

See footnotes at end of table.

Table 4—Widely held farm corporations (more than 10 shareholders), by region and commodity, 1974—Continued

Commodity	West South Central				Mountain				Pacific				U.S. Total			
	Privately held		Publicly held ano others		Privately held		Publicly held and others		Privately held		Publicly held and others		Privately held		Publicly held and others	
	Number	*Percent of farm sales*[1]	*Number*	*Percent of farm sales*[1]	*Number*	*Percent of farm sales*	*Number*	*Percent of farm sales*[1]	*Number*	*Percent of farm sales*[1]	*Number*	*Percent of farm sales*[1]	*Number*	*Percent of farm sales*[1]	*Number*	*Percent of farm sales*[1]
Crops:																
Cash grain	46	0.02	46	0.02	39	0.01	24	0.01	54	2.3	52	1.5	296	0.2	228	0.2
Tobacco	0	0	0	0	0	0	0	0	0	0	0	0	15	.7	33	2.8
Cotton	19	.8	4	.07	5	5.2	4	2.0	17	8,5	17	5.5	62	2.7	31	1.5
Field seeds, hay, forage and silage	23	(D)	18	(D)	28	.5	15	.8	24	2.4	33	2.0	137	.6	114	.6
Other field crops[2]	20	(D)	11	15.7	6	.3	5	.3	26	7.1	38	35.3	64	4.0	81	15.8
Vegetables, sweet corn, melons	4	(D)	4	2.6	3	3.4	10	5.9	21	5.0	35	6.1	64	3.9	106	8.6
Fruits, nuts, berries	13	1.7	7	8	8	9.0	7	1.3	71	2.8	103	6.9	173	3.3	181	9.8
Nursery and greenhouse products	6	4.1	5	(D)	4	(D)	8	4.0	28	(D)	27	7.5	110	5.5	81	12.7
Livestock, poultry products and poultry:																
Poultry products and poultry	13	2.1	48	(D)	4	1.7	11	12.7	20	6.2	34	8.4	122	2.6	234	6.3
Dairy products	5	(D)	2	(D)	11	2.4	3	.1	5	.7	8	.9	59	.4	17	.2
Sheep, lambs, and wool	2	.1	2	(D)	16	1.2	8	3.6	6	.4	2	0	45	.7	20	1.5
Hogs and pigs	12	3.7	7	3.7	8	.6	5	2.9	7	1.9	2	.2	114	.3	57	.3
Cattle and calves	111	8.6	54	13.7	122	5.4	40	12.0	61	6.6	39	7.6	534	4.3	249	6.2
Other livestock and livestock products[3]	17	(D)	10	0	23	10.6	11	1.5	9	.2	3	0	87	3.2	52	7.8
Total of all commodities	161	3.7	130	6.0	150	3.2	90	6.0	202	4.4	243	8.3	1013	1.9	947	3.4

Note: Regions, based on Census divisions, include the following States:

Northeast	*West South Central*	*Mountain*	*South Atlantic*	*East South Central*
Maine	Arkansas	Montana	Delaware	Kentucky
New Hampshire	Louisiana	Idaho	Marylane	Tennessee
Vermont	Oklahoma	Wyoming	Virginia	Alabama
Massachusetts	Texas	Colorado	West Virginia	Mississippi
Rhode Island			New Mexico	North Carolina
Connecticut			Arizona	South Carolina
New York			Utah	Georgia
New Jersey			Nevada	Florida
Pennsylvania				

[1]Percent of all farm sales in the region.
[2] Includes sugar crops, potatoes, popcorn, sunflower, safflower, hops, lentils, etc.
[3] Includes horses, ponies, goats, bees, fur-bearing animals, etc.

(D) Figure not disclosed to ensure privacy of individuals.

Source: *1974 Census of Agriculture,* Vol. 14, Special reports part 5, "Corporations in Agricultural Production." Similar detailed data for publicly traded and other farm corporations were not enumerated in the 1978 Agricultural Census.

Table 5—States with the largest proportion of farm sales by large corporations, selected commodities, 1974

Commodity	Privately held more than 10 shareholders		Publicly held and other	
	Number	*Percent of farm sales*[1]	*Number*	*Percent of farm sales*[1]
Crops:[2]				
Cash grain—				
Arizona	7	4.7	13	6.0
California	33	4.0	40	2.7
Texas	25	.1	18	.2
Tobacco—				
Connecticut	1	(D)	12	64.7
Massachusetts	0	0	11	84.3
North Carolina	5	.1	5	0
Cotton—				
Arizona	5	5.2	4	2.2
California	17	8.5	17	5.5
Mississippi	7	2.5	1	0
Field seeds, hay, forage and silage—				
Arizona	6	(D)	8	2.4
California	15	3.1	26	2.7
Washington	4	.9	1	.1
Other field crops—				
California	14	2.7	21	4.6
Louisiana	17	6.6	7	9.3
Washington	4	2.0	3	(D)
Vegetables, sweet corn, melons—				
California	21	5.8	29	6.3
Florida	7	8.3	5	6.9
Wisconsin	11	2.9	12	10.5
Fruits, nuts, berries—				
California	59	3.1	90	5.8
Florida	52	6.4	44	12.5
Hawaii	3	1.4	11	78.3
Nursery and green-house products—				
California	20	6.7	20	7.3
Ohio	14	10.2	7	17.3
Pennsylvania	6	16.7	6	7.6

Commodity	Privately held more than 10 shareholders		Publicly held and other	
	Number	*Number of farm sales*[1]	*Number*	*Percent of farm sales*[1]
Livestock, poultry and other products:[2]				
Poultry and poultry products—				
California	8	6.1	25	8.1
Georgia	6	2.2	13	4.5
Texas	4	2.0	17	10.7
Dairy products—[3]				
Florida	6	5.2	0	0
New Mexico	6	20.3	1	.1
New York	3	.2	1	0
Cattle and calves—				
California	25	6.9	21	7.1
Colorado	15	5.5	11	24.5
Texas	68	12.0	42	18.0
Sheep, lambs, and wool—				
Idaho	1	4.1	0	0
Nebraska	3	7.9	0	0
Wyoming	5	2.4	2	2.1
Hogs and pigs—				
Colorado	3	1.0	2	4.8
Iowa	16	.1	4	0
Texas	6	2.9	7	5.8
Other livestock and livestock products—				
New York	0	0	3	7.9
Virginia	2	.8	4	8.2
Wisconsin	2	0	5	39.0

[1] Percent of all farm sales in the State.
[2] States shown were selected on the basis of the largest combined sales of each commodity by large farm corporations (those with more than 10 shareholders, publicly held, or other corporations). Where no data were disclosed,the State was not considered.
[3] California had the second largest sales by all types of corporations but they were apparently owned by 10 or fewer shareholders.
(D) = Figure not disclosed to insure privacy of individuals.

Source: U.S. Department of Commerce. Bureau of the Census, *1974 Census of Agriculture,* Vol. IV, SpecialReports, Part 5, "Corporations in Agricultural Production." Similar detailed data for publicly traded and other farm corporations were not enumerated in the 1978 Agricultural Census.

(22.9 percent of total farm output in 1980) than vertical integration (7.4 percent—table 6).

In both 1960 and 1980, contracting was substantially greater for livestock than for crops: 38.2 percent versus 14.3 percent. The crops most heavily contracted were sugar beets, vegetables for processing, seed crops, citrus fruits, potatoes, and sugarcane, ranging from nearly all of production of sugar beets to 40 percent of the output of sugarcane. For livestock, fluid-grade milk and broilers led by far in contract production, which accounted for about 95 percent in both 1960 and 1980.

Vertical integration was equally important for crops and livestock. Sugarcane, vegetables for the fresh market, and

Table 6-Farm output under production contracts and vertical integration

Products	Production and marketing contracts[1]			Vertical integration[2]		
	1960	1970	1980	1960	1970	1980
				Percent		
Crops:[3]	**8.6**	**9.5**	**14.3**	**4.3**	**4.8**	**5.3**
Feed grains	.1	.1	7.0	.4	.5	.5
Hay and forage	.3	.3	.5	NA	NA	NA
Food grains	1.0	2.0	8.0	.3	.5	.5
Vegetables for fresh market	20.0	21.0	18.0	25.0	30.0	35.0
Vegetables for processing	67.0	85.0	85.0	8.0	10.0	15.0
Dry beans and peas	35.0	1.0	2.0	1.0	1.0	1.0
Potatoes	40.0	45.0	60.0	30.0	25.0	35.0
Citrus fruits	60.0	55.0	65.0	20.0	30.0	35.0
Other fruits and nuts	20.0	20.0	35.0	15.0	20.0	25.0
Sugarbeets	98.0	98.0	98.0	2.0	2.0	2.0
Sugarcane	40.0	40.0	40.0	60.0	60.0	60.0
Other sugar crops	5.0	5.0	5.0	2.0	2.0	2.0
Cotton	5.0	11.0	17.0	3.0	1.0	1.0
Tobacco	2.0	2.0	2.0	2.0	2.0	2.0
Oil-bearing crops	1.0	1.0	10.0	.4	.5	.5
Seed crops	80.0	80.0	80.0	.3	.5	10.0
Miscellaneous crops	5.0	5.0	5.0	1.0	1.0	1.0
Livestock items:[3]	**27.2**	**31.4**	**38.2**	**3.2**	**4.8**	**10.1**
Fed cattle	10.0	18.0	10.0	3.0	4.0	6.0
Sheep and lambs	2.0	7.0	7.0	2.0	3.0	3.0
Hogs	.7	1.0	1.5	.7	1.0	1.5
Fluid grade milk	95.0	95.0	95.0	3.0	3.0	3.0
Manufacturing grade milk	25.0	25.0	25.0	2.0	1.0	1.0
Eggs	5.0	20.0	52.0	10.0	20.0	37.0
Broilers	93.0	90.0	89.0	5.0	7.0	10.0
Turkeys	30.0	42.0	62.0	4.0	12.0	28.0
Miscellaneous	3.0	3.0	3.0	1.0	1.0	1.0
Total farm output[4]	15.1	17.2	22.9	3.9	4.8	7.4

NA = Not available.

[1] "Contract production" in farming involves the vertical coordination of farm production under agreements between farmers and processors, dealers, or others that usually deal directly with farmers.

[2] "Vertical integration" means the kind of vertical coordination that goes on within a firm, with two or more production stages coordinated inside that firm.

[3] The estimates for individual items are based on the informed judgments of a number of production and marketing specialists in USDA. The totals were obtained by weighting the individual items by the relative weights used in computing the ERS index of total farm output.

[4] Totals obtained by combining the total estimates for crops and livestock after adjusting for double counting of farm-produced feed crops consumed by livestock.

Source: (*1*); Data for 1980 were provided by ERS commodity specialists.

potatoes were the only products for which integrated firms produced more than 25 percent of output in both 1960 and 1980. Integrated turkey and egg producers accounted for more than 25 percent of total volume in 1980. Between 1960 and 1980, the volume of integrated turkey production increased by seven times and that of egg production nearly quadrupled.

As with commodity specialization, vertical integration and contracting tended to occur in the States without restrictive statutes, even before the other States enacted their statutes. There are exceptions however. While many of the restricting States are important centers of cattle feeding and hog production, the integrating and contracting activities in those enterprises tended to occur in other States. In the States with restrictions on corporate farm activities, cattle and hogs are usually produced on family farms and sold in open markets. That arrangement is generally true also of grain production which is also very important in most of the States with restrictive statutes.

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Economic and Tax Incentives for Incorporating

Federal income and estate taxes have provided a major incentive for family farms to incorporate and probably accounted for much of the large increase in the number of closely held farm corporations.[6] Federal tax provisions probably did not provide substantial incentives for more widely held corporations to enter into agricultural production.[7] The Economic Recovery Tax Act of 1981, which reduced individual tax rates and made minor reductions in corporate rates, will probably dissuade some farmers from incorporating.

Income taxes have become an increasingly important consideration in recent years in choosing a form of business organization for two key reasons: first, the net income and income taxes of many farming operations have been increasing because of inflation and growth in farm size; second, corporate tax rates were reduced relative to individual rates in 1975, 1979, and 1981. While there had been some downward adjustments in personal income taxes, most of which benefit taxpayers with low taxable incomes, inflation and higher nominal incomes due to inflation moved many farmers into higher personal income tax brackets during the seventies.

While farmers with net taxable incomes above about $25,000-$30,000 could substantially reduce their taxes by incorporating during the past decade, farmers have considered, and will continue to consider, a number of other factors in deciding whether to farm as sole proprietors, partnerships, or corporations. Table 7 summarizes some of the key factors that farmers consider in choosing the best form of business organization for their farms.[8]

[6] This section draws most heavily on (*2* and *5*). Readers who are interested in the broad base as well as frequent updates on the substance of this section may wish to consult Neil E. Harl, *Agricultural Law,* volumes 4 through 8, Matthew Bender Publishing Company, New York.

[7] Some of the tax incentives were lessened by the Tax Reform Act of 1976. The act made partnership formation less attractive in some cases to nonfarm investors by limiting claims of losses by such investors to the amount that they actually have at risk in a venture. Previously, the entire amount of the annual loss incurred by the partnership was distributed on a pro rata basis among all partners. The Tax Equity and Fiscal Responsibility Act of 1982 further changed the Federal tax provisions that affect agriculture. For highlights of the act, see box, p. 22.

[8] See (*2*) for a detailed discussion of the factors.

[9] General tax preferences long granted agriculture, such as cash accounting, can be used by all three business organizations and are not analyzed separately. However, limitations are imposed on cash accounting for corporations with large taxable incomes and some partnerships with a corporation as a partner. State income tax treatment of each of the forms of business organizations can vary by State and may also influence selection of a business organization.

Income Tax Rates

The various types of legal business entities are treated differently by the Federal tax laws—both in the tax rates and in the way that net taxable income is computed.[9] Most comparisons made in this section are between a corporation and a sole proprietorship. Partnerships are mentioned infrequently since partnership income is treated, for tax purposes, like sole proprietorship income. The data and discussion cover tax provisions both before and after the Economic Recovery Tax Act of 1981 since the past provisions influenced incorporation and the provisions since 1981 will influence farmers in the future.

Some corporations have an option to file their tax returns under Subchapter S provisions in the Internal Revenue Code when they have 35 or fewer shareholders (25 in 1982; 15 before 1982; 10 before 1976). Income is allocated to the shareholders generally in the same form as earned by the corporation and is taxed at personal rates. The S corporation, or tax-option corporation, as it is often called, generally is not a separate taxable entity.

Corporate tax rates were reduced for the four smallest sizes of corporations between 1979 and 1983 (table 8).

Even after allowing for the effects of inflation, 1979 corporate income tax rates were reduced between 4 and 38 percent from 1969-79 (*2*). In contrast, after allowing for inflationary effects during the same period, Federal income tax rates for individuals increased by 13 percent for a $3,000 taxable income level in 1969 and by 34 percent for a $21,000 taxable income level in 1969. Thus, the real decline in tax rates for corporations and the increase in tax rates for sole proprietors provided substantial incentive for farmers with $25,000 or more in taxable income in 1981 to incorporate to save on Federal taxes.

With the full extent of the reductions in force in 1983 for corporations and in 1984 for individuals, rates are reduced the most for individuals (fig. 5). After 1984, individual tax rates will be indexed with inflation so the real tax rates will remain steady (table 9). Farm producers will probably use the rates shown in tables 8 and 9 when deciding whether to incorporate. Figure 6 shows that the breakeven marginal tax rate between a sole proprietorship and a corporation ($7,600 in 1980) will rise to about $12,000 in 1984. Thus, based on a simple one-variable analysis, the change in tax rates suggests that farmers will need over $4,000 more in

Table 7—Selected characteristics of the general forms of business organization[1]

Nature of entity	Sole proprietor, single individual	General partnership,[2] two or more individuals or corporations	Corporation,[3] legal entity separate from shareholders
Life of business	Terminates when business is stopped or proprietor dies.	Agreed term: terminates at death of a partner or agreed succession.	Perpetual or fixed term of years if agreed to by owners and heirs.
Liability	Personally liable to full extent of personal assets.	Each partner liable for all partnership obligations of the firm and for actions of all partners.	Limited to personal investment. Shareholders not personally liable for corporate obligations unless they agree to be.
Source of capital	Personal investment, loans, gifts.	Partners' contributions, loans.	Shareholders' resource contributions for shares of stock, sale of stock, bonds, loans, retained earings.
Management decisions	Individual, individual and spouses.	Agreement of partners or delegation by partners. Each has power to bind partnership.	Shareholders elect directors who appoint management.
Limits on business activity	Proprietor's discretion.	Agreed on by partners.	Articles of incorporation and State laws.
Transfer of interest	Terminates proprietorship.	Dissolves partnership; new partnership may be formed if all agree.	Transfer of stock may not affect continuity of business—may be transferred to outsiders if no restrictions imposed by charter.
Effect of death	Liquidation.	Liquidation or sale to surviving partners or agreed-on individual firm.	Stock passes by will or inheritance and corporation may continue to exist.
Federal income taxes	Income taxed to individual at a maximum of 50%. Capital gains maximum of 20%.	Partnership files an information return but pays no tax. Each partner reports share of income or loss, capital gains and losses as an individual. Salaries paid to partners are taxable to partners.	*Subchapter C Corporation.* Corporation files a tax return and pays tax on income. Salaries to employees including shareholders are deductible. Capital gains offset by capital losses—maximum 28% capital gains rate. *Tax option. Subchapter S Corporation.* Corporation files a tax teturn, but generally pays no tax. Each shareholder reports share of income, operating loss, and long-term capital gain.
Employee benefits	Only Social Security required.	Partnership pays no Social Security tax. Employees pay the same as sole proprietor. Other coverages can be purchased, some at group rates. None are tax deductible to partnership. Employees may set up Individual Retirement Accounts and deduct contributions up to $2,000 limit.	Social Security taxes by both employees and corporation. May provide up to $50,000 of group term life insurance with no income tax consequences to employee. Employee health insurance may be available under group rates. Stockholder employees may qualify for, and in some states may be required to be covered under Unemployment and Workers' Compensation. Retirement and profit-sharing program contributions within limits may be deducted under a defined benefit program. Corporation's costs are deductible expenses.

[1] This table is a slightly revised version of that presented by Harl and O'Byrne (*11*).

[2] Limited partnerships are a special form of partnership which have limited partners with limited liability and at least one general partner responsible for all partnership debts and obligations.

[3] Corporations may have one or more shareholders and shares may be bought and sold privately, or listed and bought on over-the-counter markets or the larger stock exchanges if the corporations meet certain qualifications. Bond issues may be likewise traded and, in addition, may be convertible to shares of voting or nonvoting stock. The corporation is incorporated in a particular State where it may or may not operate. Other farming activities of a parent corporation may be incorporated in different States. The corporate directors can elect, with Internal Revenue Service's approval, to file Federal income tax returns under regular corporate provisions, Subchapter C, and pay corporate rates, or, if 35 or fewer shareholders are involved, to be taxed as a Subchapter S corporation where owners report their individual shares of income and expenses and pay tax at personal rates.

Table 8—Federal income tax rates declined for corporations after 1974

Taxable income	Before 1975	1975-78	1979-81	1982	1983 and later: Tax rate	1983 and later: Tax liability	1974-83
Dollars	----------	*Corporate*	*tax rate*	*(percent)*	----------	*Dollars*	*Percent decline*
Less than 25,000	22	20	17	16	15	*	32
25,000-49,999	48	22	20	19	18	3,750	66
50,000-74,999	48	48	30	30	30	8,250	37
75,000-99,999	48	48	40	40	40	15,750	17
100,000 and over	48	48	46	46	46	25,750	4

* = Varies; 15 percent of income.

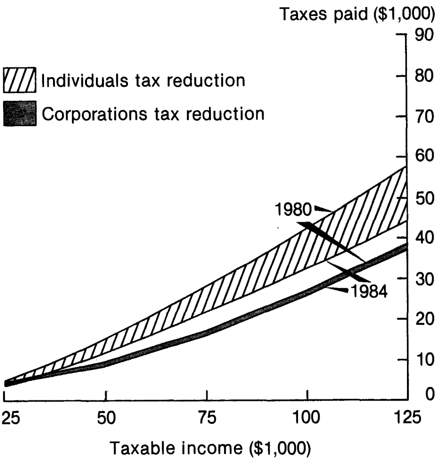
Table 9—Federal income tax rates for married taxpayers filing jointly, for taxable years beginning after 1983[1]

Taxable income	Tax liability is	Plus	Of income above
	Dollars	*Percent*	*Dollars*
3,400-5,499	0	11	3,400
5,500-7,599	231	12	5,500
7,600-11,899	483	14	7,600
11,900-15,999	1,085	16	11,900
16,000-20,199	1,741	18	16,000
20,200-24,599	2,497	22	20,200
24,600-29,899	3,465	25	24,600
29,900-35,199	4,790	28	29,900
35,200-45,799	6,274	33	35,200
45,800-59,999	9,772	38	45,800
60,000-85,599	15,168	42	60,000
85,600-109,399	25,920	45	85,600
109,400-162,399	36,630	49	109,400
162,400 and over	62,600	50	162,400

[1] If both spouses work, a deduction is allowed equal to 10 percent of the lesser of $30,000 or the qualified earned income of the spouse with the lower qualified earned income for the taxable year. Starting in 1985, tax rates, the standard deduction (or zero bracket amount) and personal exemptions will be automatically indexed in proportion to the growth of the Consumer Price Index (CPI). This indexing will prevent bracket creep caused by inflationary increases in nominal income.

Figure 5

Federal Income Taxes Reduced for Individuals and Corporations, 1980-84



taxable income in 1984 than in 1980 if they plan to save money by incorporating.

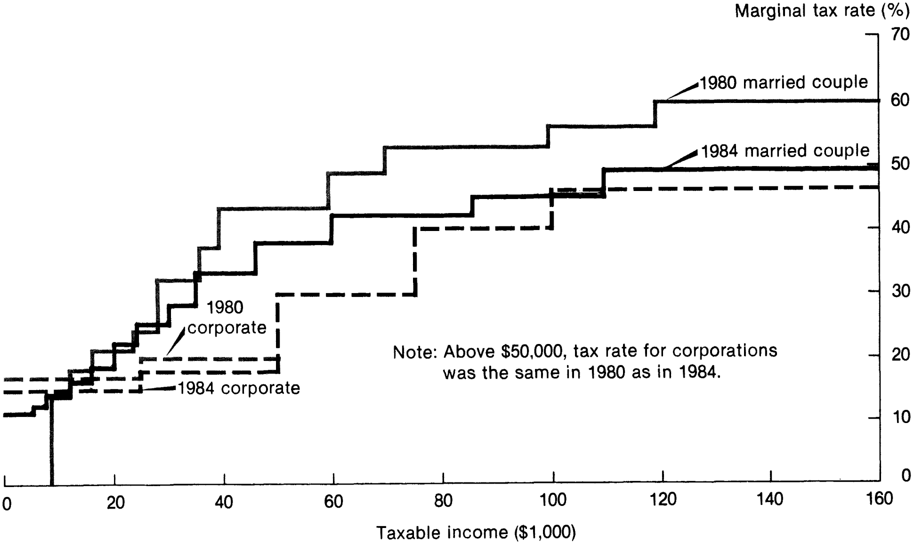
Income Sharing Between a Sole Proprietorship and a Corporation

Farmers can lower their total taxes by using a sole proprietorship in combination with a corporation or several business entities simultaneously to own and operate their farm operations and accomplish their business objectives. A farmer might, for example, include livestock and crop production enterprises in an operating corporation and own the land as an individual, renting it to the corporation under a cash- or share-leasing arrangement.

Through the proper specification of salaries and timing of the payment of salaries or purchases and sales of inventories, the farmer can adjust the taxable income of each taxpaying entity to minimize the total tax bill. Other cost items that can be used to allocate income among various

Figure 6

Reduction in Tax Rates



taxpaying entities include directors' and consulting fees, interest payments, and rent.[10]

In practice, there is considerable flexibility in allocating income between the corporation and individual owner-manager through appropriate setting of salaries, directors' fees, consulting fees, interest, rents, and other forms of compensation that are tax deductible to the corporation. IRS regulations require, however, that such compensation be reasonable and based on services rendered. Tax problems such as recapture of investment credit, a 50-percent personal holding company tax, and qualification for installment payment of Federal estate tax and special use valuation may be encountered if farm corporations are not properly structured (*9*).

Table 10 illustrates how a farmer can minimize total taxable income by using a sole proprietorship and one corporation. The principle used in the allocation was to equate the marginal tax brackets between the taxpaying entities. Since differences between the corporate and personal tax rates do not correlate exactly, the procedure used was to maximize the amount of income allocated to the taxpaying entity in the lower bracket. For example, at the $75,000 income level, $50,000 of income is allocated to the corporation and taxed at the 18-percent marginal rate and the remaining $25,000 is allocated to the owner-manager and taxed at the 22-percent marginal rate. If an additional dollar of income had been allocated from the owner-manager to the corporation, it would have been taxed at 30 percent (the corporate tax rate increases from 18 to 30

[10] Fracturing corporations in this manner can be challenged by the IRS. If there is no compelling economic reason for separate entities and if the entities are owned and controlled by family members, the IRS may invoke family attribution rules and require the income of the corporations to be combined and taxed as one entity. However, multiple corporations can be a legitimate means of separating ownership, risk, or management for various enterprises or family members.

percent for taxable income above $50,000), thus increasing the marginal tax rate by 66 percent.

Table 10 shows the potential reduction in tax costs from using an individual and owner-manager combination versus use of a sole proprietorship based on 1984 tax rates. The dollar savings increase rather rapidly from using a combination of the two entities. With $16,000 of income, $2 in taxes is saved; with $25,000 in income, $191 in taxes is saved; with $50,000 in income, $3,457 in taxes is saved. The amount saved in taxes continues to increase at an increasing rate as taxable income rises further.

Some farmers may want to receive more income from their corporation than the amounts shown in table 10 at the various taxable income levels. It is worth noting, however, all taxable income up to about $16,000 goes to the owner-manager in the form of salary. The salary established at higher income levels should allow at least a moderate standard of living. The corporation can sometimes pay directly for some of the housing, food, and other expenses of the owner-manager with such expenses being tax deductible to the corporation and not reportable as income by the owner-manager.

The incentive to save on income tax costs by incorporating was strong during the seventies and helps explain the large increase in number of farm corporations shown in table 2; most of the incentives will continue through at least the first part of the eighties. Figure 6 shows that tax as a percent of total income for a corporation and its owner manager will decrease in 1984 as compared with 1980. This is the case over most of the income range. With a taxable income of $50,000 or less, the reduction results from a decline in both individual and corporate tax rates. At higher income levels, the reduction results from the lower individual income tax rates.

The tax savings derived from such combinations, however, will be less in 1984, when the full reduction in individual rates takes effect, than in 1980 (fig. 7), except at low income levels (table 11). The absolute magnitude of the 1984 tax savings is still large enough to favor the use of a proprietorship-corporate organization over a straight proprietorship for taxable farm income above $35,000-$40,000.

Table 10—Federal income taxes can be reduced by allocating income between a corporation and its owner-manager (using 1984 tax rates)

Income	Individual owner-manager with a corporation			Sole proprietor total tax	Tax savings from incorporating
	Total individual income tax	Total corporate tax	Total individual and corporate tax		
		Dollars			
4,000	0	0	0	0	0
8,000	66	0	66	66	0
12,000	539	0	539	539	0
16,000	1,085	15	1,100	1,102	2
20,000	1,085	615	1,700	1,741	41
25,000	1,085	1,365	2,450	2,641	191
30,000	1,085	2,115	3,200	3,815	615
35,000	1,085	2,865	3,950	5,098	1,148
40,000	1,085	3,615	4,700	6,538	1,838
45,000	1,741	3,750	5,491	8,168	2,697
50,000	2,497	3,894	6,391	9,848	3,457
75,000	2,673	8,250	10,923	19,788	8,865
100,000	6,274	11,490	17,764	30,600	12,836
150,000	15,168	20,150	35,318	53,664	18,346
200,000	30,600	25,750	56,350	79,400	23,050
215,000	36,630	26,486	63,116	86,900	23,784
220,000	36,630	28,786	65,416	89,400	23,984
225,000	36,630	31,086	67,716	91,900	24,184

Note: See appendix table 1 for detailed calculations in all tax brackets and assumptions made.

Tax Changes in 1982

The analysis in this report is based on the Economic Recovery Tax Act of 1981. The 1982 tax act, while not directly altering individual and corporate tax rates, will increase the total tax costs for some individuals and corporations.

The 1982 Act will collect additional taxes primarily through a series of changes designed to improve taxpayers' compliance and by changing some provisions authorized by the 1981 Tax Act. Most of the changes became effective January 1, 1983. Some of the highlights of the 1982 Act that will affect some farm firms include:

- Reducing the basis of property for depreciation purposes by 50 percent of a 10-percent investment credit. For recovery property in lieu of a basis reduction, a taxpayer can elect a 2-percent reduction in the regular credit and claim an 8-percent regular investment credit (or 4 percent in the case of property that qualifies as a 3-year recovery property).
- Some corporations will have to pay their income taxes sooner. At least 90 percent of taxes will have to be paid by the due date of the tax return.
- Taxpayers with uneven seasonal income will have to use a new method of figuring their estimated payments.
- Tax preferences given to corporations were reduced by 15 percent.
- A new alternative minimum tax is imposed on certain individual taxpayers who have preference income such as excluded long-term capital gains, the excluded $1,000-$2,000 interest from all-savers certificates and the $100-$200 dividend exclusion.
- In addition, the 1982 Act may prove to be the most significant pension legislation since the Employee Retirement Income Security Act of 1974. The maximum that a defined benefit plan can pay out is $90,000 per year, down from $136,425. Corporate payments for defined contribution plans are limited to the lesser of $30,000 or 25 percent of compensation. Starting in 1984, self-employed farmers will be able to make a comparable contribution to a Keogh tax-sheltered retirement plan. The effect of these changes is to eliminate differences between corporate and noncorporate pension plans. For estates of decedents dying after 1982, only $100,000 of accumulated pension plan and Individual Retirement Account benefits can be bequested tax free to heirs. Death payouts taken in annuity form were previously excluded from estate taxes.

Since the 1982 Act is longer than the 1981 Act and deals with many variables that may provide some suprises to agricultural firms and their advisors, those that may be affected are counseled to review the act and subsequent interpretations and to consult with their tax advisors.

Taxes and Fringe Benefits

Payroll taxes and fringe benefits have become more important in farming as Government has imposed broader, more costly taxes on employers and employees. In addition, farmers and their employees have sought insurance coverage as well as private retirement programs. Employee benefits, like insurance and retirement plans, are taxed differently depending upon the form of business organization (*15*).

Although a corporation may pay lower Federal income taxes than a sole proprietorship or partnership, payroll taxes, including social security, Unemployment Insurance, and Workers' Compensation, may be higher for a corporation. The social security self-employment tax rates (for 1983) were 9.35 percent on the first $35,700 of earnings for self-employed individuals, including partners. For a corporation or for any employee of a sole proprietorship or partnership, the rates for 1982 were 6.7 percent contributed by the employee and the same percentage contributed by the employer for a total tax of 13.4 percent on the first $35,700 of employee salary for 1983. The social security tax rates and maximum earnings to which these rates apply are scheduled to increase.

The *social security* tax rate is higher for a corporation even after adjusting for the tax deductibility of the corporate contribution. The after-tax cost of the corporate contibution (6.7 percent of salaries and wages) in 1982 is 3.62 percent for a corporation in the 46-percent tax bracket. When added to the owner-employee's contribution of 6.7 percent, the total after-tax cost of social security for such a corporation and its employee is 10.32 percent of salaries and wages compared with 9.35 percent for a sole proprietor. Thus, social security costs, in general, do not favor farm incorporation at present. But that situation will not continue to be true since the self-employed rate is scheduled to match the combined employer-employee rate.

Workers' Compensation coverage and requirements vary by State, but, in general, sole proprietors are exempt, whereas, in some States, owner-employees and family employees of a corporation must be covered.[11] The cost of coverage, usually incurred as a premium on an insurance policy, may amount to 5 or 8 percent of the employee's salary.

[11] Workers' Compensation is an insurance program whereby employees are compensated for work-related injuries or illnesses.

Figure 7

Tax Advantages of Farm Corporation/Sole Proprietor Combination Over Sole Proprietorship Alone Narrowed Somewhat between 1980 and 1984

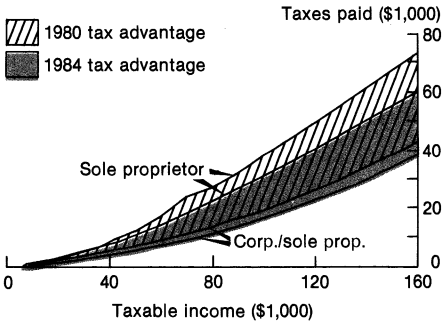


Table 11—Reduction in Federal income tax savings from incorporating, 1980 and 1984 individual and corporate rates[1]

Taxable income	1980: Individual owner-manager	1980: Individual owner-manager and corporation tax	1980: Tax savings over individual owner-manager	1984: Individual owner-manager	1984: Total individual and corporate tax	1984: Tax savings over individual owner-manager	Reduction in tax saving from incorporating, 1980 versus 1984
				Dollars			
4,000	84	84	0	66	66	0	0
8,000	702	698	4	539	539	0	0
12,000	1,425	1,378	47	1,101	1,100	1	46
21,000	3,497	2,908	589	2,673	2,450	223	366
31,000	6,608	4,608	2,000	5,098	3,950	1,148	852
41,000	10,398	6,474	3,924	8,188	5,491	2,697	1,227
46,000	12,818	7,474	5,344	9,848	6,391	3,457	1,887
51,000	15,068	8,474	7,594	11,748	7,291	4,457	3,137
76,000	28,166	14,175	13,991	21,888	12,065	9,823	4,168
101,000	40,855	21,703	19,152	32,850	19,264	13,586	5,566
151,000	71,461	41,862	29,599	57,014	37,318	19,696	9,903
201,000	101,246	64,862	36,384	81,828	58,600	23,228	13,156
221,000	112,844	75,062	37,782	91,828	67,716	24,112	13,670

[1] The procedure used to allocate income between the individual owner-manager and the corporation so as to minimize the total tax bill was the same as that used in app. table 1.
[2] 30 percent of taxable farm income above $60,000 was considered earned income and taxed at the 50-percent rate; the other 70 percent was taxed at the applicable marginal rate.

Unemployment Insurance requirements also vary by State, but in 1982 a Federal tax of 3.4 percent on the first $6,000 of wages was imposed if the employer paid $20,000 or more in wages in any calendar quarter or employed 10 or more individuals. Owner-employees in a corporation must be covered if the conditions are met. While the basic requirements vary, the minimum cost of such insurance is $204 per employee who receives at least $6,000 in wages. For 1983, the wage base rose to $7,000 and the rate to 3.5 percent. After 1984, the rate will rise to 6.2 percent.

Even though the employer's contributions to the various programs are tax deductible, the after-tax cost of these payroll taxes is substantially higher for the farmer as an owner-employee of a corporation than as a sole proprietor, regardless of the corporation's income tax bracket. This outcome, taken by itself, discourages farmers from incorporating.

For most family farms, where the operator and family provide most of the labor and management, Workers' Compensation (at least in some States) and Unemployment Insurance are not mandatory. Thus, the key income and payroll taxes for most farmers are income taxes and social security.

Many fringe benefit programs, like retirement plans, life insurance, and health and accident insurance, receive different tax treatment depending upon the type of business organization. The flexibility and options available to adopt such programs also vary by type of organization. In general, the fringe benefit programs available to a corporation are more flexible and have a lower after-tax cost than those available to sole proprietorships or partnerships.

Sole proprietors or partners can participate in Keogh or Individual Retirement Account (IRA) plans. Under the 1981 Tax Act, a sole proprietor can contribute 15 percent of earned income, up to a maximum of $15,000 per year, to a Keogh retirement plan. The contribution is tax deductible. The limit is higher starting in 1984. Starting in 1982, 100 percent of compensation or income up to $2,000 can be contributed to an IRA and is tax deductible. Corporate retirement plans allow contributions, under certain conditions, of up to 25 percent of an employee's compensation with a maximum contribution of $45,475 in 1982 (reduced to $30,000 in 1983).[12]

The tax savings potential of a retirement program depends upon the tax bracket of the various business entities. If a corporation is formed and the tax-minimizing strategy shown in table 10 is used to allocate $50,000 of income in 1984 between the owner-manager and corporation, the marginal tax bracket of the corporation is 18 percent, so each dollar contributed to a retirement plan costs 82 cents. A farmer with $50,000 of income would be taxed in the 38-percent bracket as a sole proprietor in 1984, so each dollar of retirement contributions costs 62 cents. In this case, the corporate retirement plan has a higher after-tax cost, but the corporation is obtaining some offsetting savings in Federal income taxes from the division of income between the corporation and owner-manager.

Because of the differences in the tax treatment of fringe benefits, the after-tax dollars needed to acquire a specified level of benefits can be substantially different in the corporation and sole proprietorship (table 12). For example, if the cost of $1,000 of term life insurance is $4, the net cost after Federal income taxes of such coverage for a corporation in the 30-percent tax bracket, assuming the policy qualifies as tax deductible, is $2.80. In contrast, a sole proprietor must pay for such coverage with after-tax income.

A sole proprietor in the 33-percent tax bracket must receive $5.97 of before-tax income to have sufficient after-tax income to purchase the same coverage. The cost of the coverage is 53 percent lower for the corporation than for the sole proprietorship. The after-tax costs of fringe benefits that are tax deductible to the corporation, but must be purchased with after-tax income by the sole proprietor, are from 29 to 72 percent less expensive for the corporation, depending upon the marginal tax brackets of the two. Thus farmers who expect to use such fringe benefit programs have an incentive to incorporate.

Corporate Versus Sole Proprietor Growth

The tax savings from use of a corporation over a period of years can be substantial and if the savings are reinvested in the business, a corporate farm will grow more rapidly than

[12] The opportunity to use an Employee Stock Ownership Plan as part of the benefit and financing plan for a corporation is not discussed here because of the complexity of such plans and the regulations that are applicable. For a review of the potential use of these plans, see *(27)*.

Table 12—Fringe benefits cost less for corporations than for sole proprietonships (1984 tax rates)[1]

Corporation marginal tax bracket	Sole proprietorship marginal tax bracket (percent)						
	16	22	28	33	38	45	49
Percent	*Percent cost reduction for corporation*						
15	29	34	39	43	47	53	57
18	32	36	41	45	49	55	58
30	41	45	50	53	57	62	64
40	50	53	57	60	63	67	69
46	55	58	61	64	66	70	72

[1] These relative reductions were calculated by comparing the after-tax cost of purchasing tax-deductible fringe benefits in a corporation to the additional after-tax income that a sole proprietor must earn to pay for the same benefits (the cost of which are not tax deductible to the sole proprietor). For example, the payment of $1 for term life insurance costs only 70 cents for a corporation in the 30-percent bracket if the premium is tax deductible. In contrast, a sole proprietor must pay for such coverage with after-tax income and the premium is not tax deductible; thus, a sole proprietor in the 28-percent tax bracket must earn $1.39 of additional income to have $1 of after-tax income to pay the premium. Consequently, the cost of this insurance policy is 50 percent lower for a corporation [($1.39-$0.70) ÷ $1.39] than for a sole proprietorship.

a sole proprietorship. The cumulative financial effects for 10 years of operation as a sole proprietorship and as a corporation for an Iowa corn hog farm are discussed here for illustrative purposes. Individual and corporate tax rates in effect in 1979 were used (*2*).

A computer program with 1984 tax provisions was not available when this report was prepared to analyze the 10-year tax and growth effects as was done for 1979. Thus, exact results under the 1984 provisions cannot be determined. However, given the moderately high starting net worth sizes used under the law in effect in 1979, it is unlikely that the tax savings from using a sole proprietorship and corporation combination versus use of only a sole proprietorship would decline by more than 10-20 percent under the 1984 rates. In summary, the use of a corporation will continue to provide more after-tax income for farm units with high taxable income.

The farm was assumed to start with three different situations: 1) a $982,871 net worth—100-percent equity, 2) a $491,435 net worth—50 percent equity, and 3) part-owner with $363,791 net worth—60 percent equity. A sole proprietorship and corporate form of business organization was imposed on each of the three situations for 10 accounting periods (years) with a schedule of financial withdrawals for family living and payment of Federal income taxes. The remainder of the net income was invested in the farm business for further growth at the start of each new accounting period.

The 10-year accumulated taxes for the 100-percent equity situation amounted to $242,366 for the sole proprietor and $145,501 for the corporation. The savings result from the lower corporate rates and income splitting at the higher taxable income levels. Thus, Federal income taxes were reduced by over $96,000 by using the corporate business organization. The tax savings, when invested in the farm business, resulted in 10.45-percent annual growth rate for the corporate farm while the sole proprietorship was able to grow at a 9.83-percent rate. The tax savings for the 50-percent equity and part-ownership situations were not as large—about $36,000 and $14,000, respectively.

If the farm had had a starting net worth of about $3 million and 100-percent equity, the tax savings from incorporation versus use of a sole proprietorship over a 10-year period, would have amounted to over $215,000. This illustrates the earlier analysis that the larger the farm with income subject to taxation, the greater is the financial incentive to incorporate to save on taxes.

Estate and Gift Taxes

One of the reasons frequently cited for farm incorporation is to facilitate estate transfer. Making annual gifts to various family members of 10 or 40 acres of a farm or a half of a farm machine per year is possible under a sole proprietorship, but very cumbersome. Transferring large parcels of land may fragment an efficient farming operation.

Transferring shares of stock in a farm corporation is a relatively simple and convenient way to transfer farm assets to heirs. Transfer of stock prior to or at death may help to keep a farm business operating at peak efficiency. Farm heirs and off-farm heirs may be willing to maintain their ownership and leave their inherited capital in the farm business if they see that it will be operated efficiently and they will receive a reasonable return on their investment.

The Economic Recovery Tax Act of 1981 substantially changed the gift and estate tax provisions. Before the new law, each individual could give up to $3,000 annually to each of as many people as he or she chose with no gift or estate tax generally due. Starting in 1982, such gifts can be $10,000 per person per year.

In addition, both the old law and the 1981 law allow a credit against gifts and estate taxes due in 1981 of $47,000. This provision enables an individual to transfer approximately $175,000 during life or at death free of Federal gift or estate taxes. Farmers and other business proprietors could also qualify for up to a $500,000 reduction in the value of their estate under special real estate use value provisions. In addition, where more than 65 percent of the adjusted gross estate was in a small business, a 15-year installment payment of taxes could be used. Interest on the first $1 million of a taxable estate ($345,800 of tax) less the unified credit attributable to farm or other closely held business property was at 4 percent per year. Furthermore, the payment schedule called for interest payments only for the first 5 years, and equal installment payments on the tax plus interest for the remaining 10 years.

The 1981 tax act substantially raised the amount of the tax-free transfer. Starting in 1982, the act increases the tax-free transfer in increments to $600,000 in 1987 (fig. 8 and table 13). The prior law started the tax rate at 32 percent and set the maximum marginal tax brackets at a range of 53 to 70 percent. The 1981 Act set the maximum rate at 50 percent in 1985. Thus, beginning in 1985, the portion of an estate's taxable value exceeding $2.5 million will be taxed at 50 percent.

The special use value reduction for real estate rose from $500,000 to $600,000 in 1981, to $700,000 in 1982, to $750,000 in 1983 and later. The 15-year installment provisions were continued, but after 1981, one can qualify to use them only when 35 percent or more of an adjusted gross estate is in farms or closely held businesses. The Economic Recovery Tax Act of 1981 provides an unlimited marital deduction for transfers to spouses. Since the provision applies to both estate and gift taxes, it eliminates the taxing of transfers between spouses either during life or upon death. The advantages and ease of stock transfers mentioned earlier also apply to marital transfers.

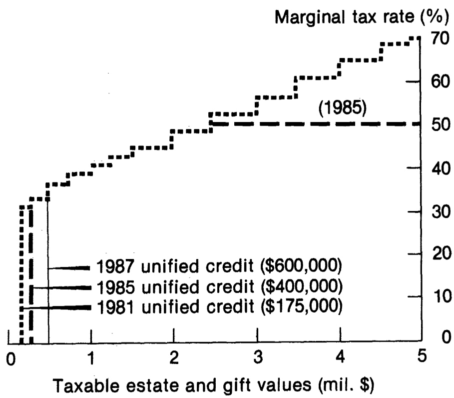
Table 13—Schedule for phasing in increases in the unified estate tax credit

Year	Credit	Exemption equivalent[1]
	Dollars	
1981	47,000	175,000
1982	62,800	225,000
1983	79,300	275,000
1984	96,300	325,000
1985	121,800	400,000
1986	155,800	500,000
1987	192,000	600,000

[1] Amount of estate that is tax free.

Figure 8

Reductions in Inheritance Tax Rates, 1981-85*



*Unified estate and gift tax rates.

While the old and new gift and estate provisions apply equally to sole proprietorships, partnerships, and corporations, use of an incorporated business probably better facilitated property transfers before 1982 and may continue to do so under the 1981 Act. In the past, this was particularly the case if property was transferred through gifts prior to death. Where the value of farm resources continued to increase rapidly through the seventies, transfer prior to death through corporate stock shares resulted in some of the appreciation accruing to the heirs rather than being taxed in the parents' estate. Thus, opportunity to transfer shares of stock probably contributed to the rapid increase in the number of farms that incorporated in the last part of the seventies.

If the appreciation in land values slows down from the pace of the seventies (farmland has recently been declining in value), that, combined with the scheduled increase in the gift and death tax exemptions through 1987, may retard the rate of farm incorporation where gift and estate transfers are the primary reasons for incorporating. However, farmers who successfully use a rapid growth strategy, and whose land values rise parallel with inflation in the general economy, will still have incentives to incorporate—in order to reduce their estate taxes under the Economic Recovery Tax Act of 1981.

Additional Observations

The rate of farm incorporation will probably be lower in the early eighties than it was in the late seventies. For some family farms, incorporation will encourage firm growth and may increase farm size since more after-tax income is available for reinvestment. The growth in farm corporations will likely come from at least four groups of farmers and nonfarmers:

- Farmers with modest size farms and net worths of over \$250,000 will likely incorporate primarily for estate planning and transfer purposes. They may file their Federal income tax returns under regular or tax option provisions. This group will probably increase corporate farm numbers the most.

- Family farmers will likely incorporate not only for estate planning purposes, but more important, to facilitate farm growth. This group of farmers faces high taxable incomes, which can be partly offset by lower corporate tax rates.

- New farming operations, formed by nonfarm investors and by companies operating in other parts of the food system or in other sectors of the economy, will also be attracted to the corporate type of organization. Such corporations may be owned or operated by individuals or by small syndicates whose owners are merchants, professional workers, and so forth. The established companies that enter farming may be closely held or public corporations with no dominant individual owner.

- Current farm and nonfarm corporations may fracture their existing corporate structures or set up new corporations to specialize in one or more aspects of farm production such as livestock rearing, providing farm inputs and machine services, or marketing farm products. (Some of those corporations will likely be classified as agricultural services and marketing corporations rather than as farm corporations.) Such corporations may be developed for many different reasons: in some cases, parallel corporations may be established to accommodate an increase in family members, as second-, third-, and even fourth-generation heirs specialize in particular farm activities or take their assets from the larger parent corporation and establish their own farm activities; in other cases, farm owners may see an opportunity to expand in a particular activity, such as livestock breeding, farm chemical applications, or farm product market analysis, and set up a new corporation to avoid exposing the parent farm corporation to new risks and liabilities.

With a change in numbers and characteristics of farm corporations, a secondary market for farm corporations' stock and debentures may be needed since some heirs will want money in exchange for some or all of their inheritance from the farm. Public development of such markets may be in society's interest if the intergenerational corporation accomplishes societal objectives. Development of such markets may involve some form of private or public assessment or rating of farm debentures and stock.

Policymakers have not explicitly considered the economic impact of tax policy on agriculture. This has especially been the case with regard to corporate tax rates, which were reduced for firms with less than \$100,000 of taxable income, in part to favor small businesses, while bracket creep was permitted to continue for sole proprietors and partnerships. For the most part, the rates were reduced to benefit businesses larger than most farms. However, some farm firms are large enough to benefit from the tax reductions. Future Federal income tax proposals should be more closely analyzed and debated for their effects on farmers.

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State Restrictions on Farm Corporations

At the end of 1981, 10 States had statutes that restricted certain corporations' farmland ownership, farm production, or vertical integration in farming (fig. 9). In addition, West Virginia and South Carolina tax corporate farmland at a higher rate than noncorporate land. This section provides a review of the statutes in the 10 States that regulate corporations involved in farming.[13] Changes made between 1977 and 1981 are discussed first, followed by a discussion of all the statutes in effect in 1981 and their likely effects on farming.

Recent Changes in Statutes

Eight States amended their corporate farm statutes between 1975 and 1981, South Carolina enacted a new law, and Oregon let its statute expire (Oregon required corporations to file an annual report with the State Government). The changes in five of the seven States were narrowly focused to restrict farm activities of pension and investment trusts. Changes in North Dakota and Kansas also covered trusts but were much broader and covered other types of corporations.

Pension Funds and Institutional Investments. South Dakota and Wisconsin passed statutes in 1977 that restricted pension and investment trusts, followed by Minnesota and Nebraska in 1981. Iowa included certain trusts in its 1977 corporate moratorium which was made permanent in 1979. Missouri covered the topic when its corporate farm statute was passed in 1975.

Pension funds and private institutions, which were interested in setting up special funds to invest in and manage agricultural land, came under critical national appraisal by some farm organizations and public interest groups in the last half of the seventies. The problem foreseen was that the tax-deferred status of pension fund money represented unfair competition for family farmers in acquiring farmland.

One proposal in particular that involved financial institutions and pension funds investing in farmland received national attention and was the subject of early 1977 hearings sponsored by the Subcommittee on Family Farms, Rural Development, and Special Studies, Committee on Agriculture, U.S. House of Representatives (*3*). The proposal was withdrawn soon after the hearings. It was followed by other pension fund proposals, and the Senate Committee on Small Business held hearings in October 1980. The hearings led to a request by the subcommittee to the General Accounting Office (GAO) to make a special study of the topic (*4*).

The GAO study apparently persuaded Congress that investment in farmland by pension funds was not a national problem nor likely to be soon. The GAO reported that, "although real estate in general had become a progressively more attractive investment, pension fund fiduciaries reported that agricultural land was not as attractive an investment as commercial real estate."

More specifically, the GAO found that:

(1) A substantial part of the total pool of pension fund assets of about $623 billion in 1979 had limitations as to the specific types of investments that could be made with the funds. Federal laws limited about $98 billion in public pension fund assets to investments in only Federal or federally backed securities. State and local laws, while not completely reviewed, were likewise thought to limit the types of investments funds could make.

(2) Only about $1.00 of every $4,429 of pension fund assets (0.02 percent) was directly invested in farmland.

(3) Large pension fund fiduciaries (seven with about $93 billion in assets) indicated that they did not intend to increase the percentage of their portfolios invested in farmland.

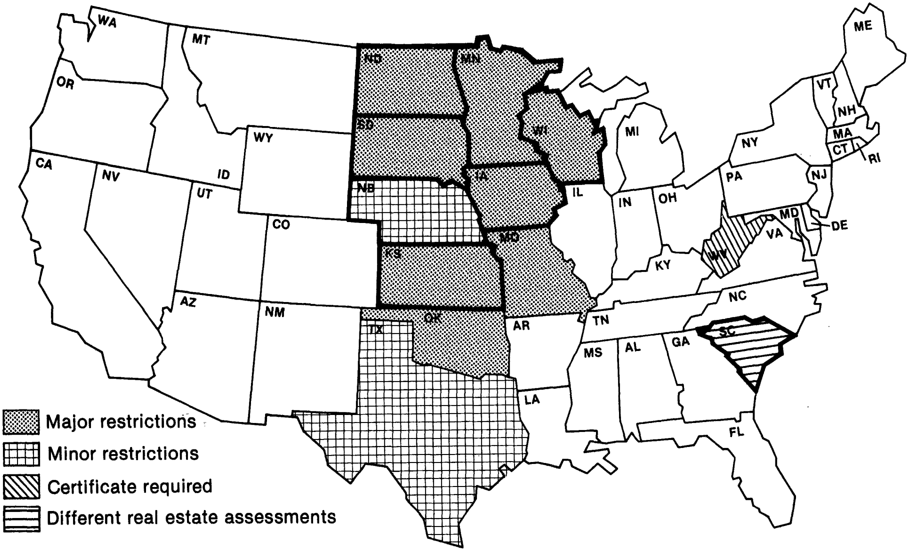
The national analysis suggesting that pension fund investment in agricultural land would be insignificant was apparently not convincing to some State legislatures. However, prohibiting pension investment in the several States will not likely have much effect on retarding the future number of corporations in the States. The number of such potential corporations, in the absence of restrictions, was very small and probably would not have exceeded 25 to 50 per State.

North Dakota and Kansas Ease Corporate Restrictions. The North Dakota Corporate Farming law, in effect from the early thirties through July 1, 1981, was the most restric-

[13] Readers who are interested in the legal language and its meaning can refer to the following sources: the concluding section of this report summarizes the current statutes, *State Regulation of Corporate Farming* covered the statutes in effect at the end of 1977 (*1*), and Harl's new *Agricultural Law,* Volume 7, contains the statutes and will be updated three times per year (*2*).

Figure 9

States with Corporate Farming Statutes, 1981



States outlined in bold changed their corporate farm laws between 1978 and 1981.

tive State law regulating corporate ownership and operation of farms. The law prohibited all corporations, foreign and domestic, family and nonfamily, from engaging in farming or agriculture. The single exception to the prohibition was for cooperative corporations, 75 percent of whose members or stockholders were actual farmers residing on farms or depending principally on farming for their livelihoods.

The 1981 Act permits family-held farms and ranches to incorporate if they have 15 or fewer shareholders, all of whom are related individuals. Officers and directors must be shareholders actively engaged in operating the farm or ranch and at least one shareholder must reside on or operate the farm or ranch.

A trust may not be a shareholder of a corporation if the beneficiaries of the trust together with other shareholders and members are more than 15 in number. Stock in a corporation may be held in a trust for the benefit of an individual or a class of individuals who are related to a shareholder within the degree of kinship specified in the act.

While very restrictive of who can incorporate to farm or ranch in North Dakota, the statute will permit closely held farm and ranch corporations. Without an actual farmer survey it is not possible to estimate the number of family farms that will incorporate during the first few years that the new statute is in effect. The number of narrowly held corporations in nearby States with similar types of agriculture, according to 1978 Census of Agriculture, suggests that between 700 and 2,000 family farms may incorporate in North Dakota over the next few years. In 1978, Wyoming had 735 corporations with 10 or fewer shareholders, South Dakota 784, and Montana 1,958.

From 1931 through June 1981, Kansas prohibited corporations from producing and harvesting wheat, corn, grain sorghum, barley, oats, rye, and potatoes, and from milking cows for dairy purposes. Corporate ownership of agricultural land was permitted. Corporations could engage in farming if they had no more than 10 shareholders. The owners were not required to be related to each other, but they could not be owners in another farm corporation. In addition, farm corporations were limited to 5,000 acres, whether the land was owned, controlled, or supervised by such corporations.

The 1981 Act eased the limitations. Family farms may incorporate if the purpose is for farming and owning agricultural land. More than half of the shareholders must be persons related to each other and all must have a common ancestor within the third degree of relationship. Kansas also permits corporations whose purpose is farming and owning agricultural land, but all the incorporators must be Kansas residents and the number of shareholders may not exceed 15. Such farm corporations and testamentary trusts may also own or lease agricultural land in Kansas. The number of shareholders permitted in these types of trusts is limited so that large pension and investment trusts are not likely to qualify under the statute. No restrictions were placed on the types of crops and livestock that such farm corporations can raise.

The significant easing of restrictions in Kansas was in permitting authorized corporations to have 15 shareholders, and in permitting family farm corporations with large numbers of shareholders. When combined with the elimination of the 5,000-acre limitation, both types of corporations that had been operating under the 10-shareholder rule may expand by adding shareholders and by acquiring more land. In addition, some new authorized corporations may be formed where the 10-shareholder restriction had posed a barrier.

Kansas had an average number of corporations in 1978 compared with nearby States with restrictive statutes. Kansas had 42 corporations with more than 10 shareholders while Oklahoma had 24 and Nebraska had 65 (table 3). Kansas had 1,436 corporations with 10 or fewer shareholders while Oklahoma had 651 and Nebraska had 2,329. Colorado, without a restrictive statute, had 57 corporations with more than 10 shareholders and 1,257 with 10 or fewer shareholders. Thus, while the easing of the restrictions suggests that the number of corporations in Kansas will increase, they are unlikely to increase by more than about 25 percent.

South Carolina's Differential Assessment Takes Effect. South Carolina was the only State, among States that had no restrictions on corporate farming, to add one since 1977. Though the statute was enacted in 1975, the regulation took effect only in 1982. The regulation raises the tax assessment on farmland owned by certain types of corporations to 6 percent versus 4 percent for other such property owners. (The regulation applies to corporations with more than 10 shareholders who are not individuals, corporations with nonresident alien stockholders, and corporations with more than one class of stock.)

While the added tax will add to production and ownership costs of corporations that meet any one or more of the criteria, it will not likely deter corporations from being formed in the State when profitable opportunities exist. Organizers of new corporations can probably select shareholders with characteristics that will not result in the added assessment. Existing corporations (as of 1978, 24 corporations with more than 10 shareholders and 429 corporations with 10 or fewer shareholders) may try to rearrange their stock ownership so as to avoid the higher assessment.

Overview of the Statutes

Family farms can incorporate in all 10 States that restrict farm corporations. While the statutes are highly variable between States, most States allow certain other corporations (authorized corporations) to own farmland, to produce farm products, and to engage in vertically integrated farm activities. In general, the intent of the statutes is to exclude large agribusiness and other firms that are not in the food system from direct farm operations and, in some cases, from owning agricultural land. Table 14 provides a broad overview of the statutes' provisions.

North Dakota, which dropped its outright ban on corporate farms, is still among the most restrictive. The statute allows only family-held farms and ranches with 15 or fewer shareholders to incorporate. The shareholders must be related to each other. The definition of farming or ranching does not include a contract whereby a processor or distributor of farm products or supplies provides grain, harvesting, or other farm services.

Minnesota, Missouri, South Dakota, and Wisconsin have similiar statutes. The 1973 *Minnesota* statute became a pattern for the other three States. Family farms can be incorporated in the States so long as the corporate purpose is farming and owning agricultural land. The majority of the voting stock must be held by and the majority of the stockholders must be persons or spouses of persons related to each other within the third degree of kindred. There is no limit on the number of shareholders. The statute also allows certain nonfamily corporations: these "authorized" corporations cannot have more than five shareholders (all of whom must be natural persons or estates), can have only one class of shares, a majority of the shareholders must reside on the farm or be engaged in farming, revenues from rents and royalties, dividends, interest, and annuities cannot exceed 20 percent of the corporation's gross receipts, and farm acreage held by the corporation, as of the date of the act, cannot be expanded by more than 20 percent during any 5-year period.

Missouri permits family farm corporations and authorized corporations. A family farm corporation must have at least half of the voting stock held by, and at least half of the stockholders must be, members of a family related to each other within the third degree of consanguinity or affinity.

An authorized farm corporation is one where all the shareholders are estates, natural persons, or irrevocable trusts. Two-thirds or more of corporate net income must come from farming. Land owned or leased by an authorized corporation as of September 28, 1978, could be retained and expanded by 20 percent in any 5-year period. The number of shareholders is not limited in either type of corporation.

South Dakota permits family farm corporations as long as more than half of the voting stock is held by family members who are related to each other within the third degree of kinship and one of the stockholders resides on or actively operates the farm. Authorized corporations cannot have more than 10 shareholders, all stock must be of one class, and rent, royalties, dividends, and interest cannot exceed 20 percent of the corporation's gross receipts; land owned or leased by an authorized corporation as of July 1, 1974, can be retained and expanded by 20 percent in any 5-year period. Farmland can be acquired, owned, and operated by any type of corporation as long as such corporate farmland is used only for feeding livestock.

Wisconsin's provisions for farm corporations are a hybrid of the foregoing three States. Any corporation with no more than two classes of stock and with 15 or fewer stockholders who are all natural persons or estates is permitted. Lineal ancestors, descendants, aunts, uncles, and first cousins may be grouped as one stockholder, but only one such grouping is permitted in a corporation. Corporations may expand the land held on July 5, 1974, by 20 percent in any 5-year period. The statute permits nonfarm corporations to produce agricultural crops where they are incidental to the purpose of the corporation. Thus, the statute appears less intended to preserve the traditional family farm than to limit the size of corporations involved in farming by limiting the number of stockholders.

Iowa law also permits family farm corporations and authorized farm corporations. A family farm corporation must be founded for the purpose of farming and ownership of agricultural land and a majority of the voting stock must be held by persons who are related to each other. Sixty percent of the gross revenues over the last consecutive 3-year period must have come from farming. An authorized corporation must have been founded for the same purpose as that of a family farm corporation. A maximum of 25 stockholders is permitted and they must be natural persons or nonprofit corporations.

Iowa also restricts vertical integration in the livestock industry. It is unlawful for any processor of beef or pork to own, control, or operate a feedlot in Iowa in which cattle or hogs are fed for slaughter. A processor or limited partnership can contract for the feeding of cattle or hogs, provided that the contract sets a date for delivery which is more than 20 days after the making of the contract.

Oklahoma permits domestic family farm corporations. Such corporations may have no more than 10 shareholders who are not related as living descendants or by birth, marriage, or adoption. No more than 35 percent of annual gross receipts can come from sources other than farming or ranching.

Kansas now permits family farm corporations with any number of shareholders so long as more than half are related to each other. Authorized corporations are permitted as long as the incorporators are Kansas residents and the number of shareholders does not exceed 15. At least 30 percent of the shareholders must be persons residing on the farm or be actively engaged in the day-to-day labor or management of the farming operation.

Texas prohibits corporations from making passive investments in agricultural land. Texas also prohibits a corporate combination of cattle raising and meatpacking. Owning and operating feedlots and feeding cattle are not consid-

Table 14—State laws on corporate landownership, farm operations, and vertical integration and year of adoption.

State and year law adopted	Permits family-owned corporations	Permits certain types of vertical integration		Permits certain nonfamily corporations to				Permits certain nonfamily corporate farm operations		
				Own farm land		Lease farmland (in or out)			In perpetuity	
		Crops	Livestock	Grandfather clause	In perpetuity	Grandfather clause	In perpetuity	Grandfather clause	Breeding farms/ seed	Cattle feedlots
Iowa:										
1975	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Kansas:										
1931										
1973	Yes[1]	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
1981[2]	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Minnesota:										
1973										
1975	Yes	Yes	No	Yes	Yes	Yes	In	Yes	Yes	Yes
Missouri:										
1975	Yes	Yes	No	Yes	Yes	Yes	In	Yes	Yes	Yes
Nebraska:										
1975	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
North Dakota:										
1932										
1933[3]	No	No	No	Yes	No	No	No	Yes	No	No
1981[4]	Yes	Yes	Yes	Yes	No	Yes	No	No	Yes	Yes
Oklahoma:										
1971	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
South Carolina:[5]										
1975	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
South Dakota:										
1974	Yes	No	Yes	Yes	Yes	Yes	In	Yes	Yes	No
Texas:										
1955										
1961	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
West Virginia:										
1939	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Wisconsin:										
1974	Yes	[7]Yes	[7]Yes	Yes	Yes	Yes	Out	Yes	Yes	[7]Yes

Table 14—State laws on corporate landownership, farm operations, and vertical integration and year of adoption—continued

State and year law adopted	Permits physical growth: Certain nonfamily farm corporations	Permits physical growth: Family farm corporations	Maximum acreage which can be held	Detailed annual reports required of all corporations	Prior approval required for new corporations	Number of shareholders permitted in an "authorized" corporation	Enforcement provisions: Fine	Enforcement provisions: Forfeiture	Enforcement provisions: Suits by citizens
Iowa:									
1975	No	Yes	No	Yes	No	25	Yes	No	No
Kansas:									
1931									
1973	Yes	[1]No	5,000	Yes	No	10	No	No	No
1981[2]	Yes	Yes	No	Yes	No	15 (family unlim.)	Yes	No	No
Minnesota:									
1973									
1975	Yes	Yes	No	Yes	No	5	No	Yes	No
Missouri:									
1975	Yes	Yes	No	Yes	No	Unlimited	No	Yes	No
Nebraska:									
1975	Yes	Yes	No	Yes	No	Unlimited	No	No	No
North Dakota:									
1932									
1933[3]	Yes[7]	No	No	No	No	Unlimited	No	Yes	No
1981[4]	No	Yes	No	No	Yes	15	No	Yes	No
Oklahoma:									
1971	Yes	Yes	No	No	Yes	Unlimited	No	Yes	Yes
South Carolina:[5]									
1975	Yes	Yes	No	No	No	Unlimited	No	No	No
South Dakota:									
1974	Yes	Yes	No	Yes	Yes	10	No	Yes	No
Texas:									
1955									
1961	Yes	Yes	No	No	No	Unlimited	No	Yes	No
West Virginia:									
1939	Yes	Yes	No	No	Yes[8]	Unlimited	No	No	No
Wisconsin:									
1974	Yes	Yes	No	Yes	No	15	Yes	Yes	No

[1] There was an exemption for corporations with 10 or fewer shareholders all of whom are natural persons, but who need not be related.
[2] 1981 Kansas legislation substantially eased the limitations on incorporation of farm and ranch businesses in Kansas.
[3] Efforts to repeal the law in 1968 and 1974 were rejected in referenda in North Dakota.
[4] North Dakota enacted legislation in 1981 to allow family held farms and ranch operations to incorporate if they have 15 or fewer shareholders.
[5] Six percent of the fair market value is assessed against certain corporations while the rate is 4 percent for other farm corporations.
[6] Assuming feedlots do not make use of land "cultivated" for the production of agricultural crops. Integration is permissible to the extent that a corporation's farming comes within Wisc. Ann 182,001 (2)(f) or involves products not specifically excluded by 182,001.
[7] The single exception to the North Dakota law permitted corporations, 75 percent of whose members were residing on farms or were dependent primarily on farming for their livelihood. Feedlots and slaughtering and processing plants could be jointly owned; but these activities could not be combined with raising cattle on the open range.
[8] Certificate required if land holdings exceeds 10,000 acres.

ered raising cattle. Thus the statute separates open range cattle raising from meatpacking but lets packers own feedlots and feed cattle.

Three States regulate corporate farms but in a way that does not limit their size. *Nebraska* bars corporations not organized in the State from owning or leasing land in the State for more than 5 years. *West Virginia* corporations that hold more than 10,000 acres must obtain a State authorizing certificate and pay a one-time 5-cent-per-acre tax on all excess acreage. A leasehold is not subject to the tax. *South Carolina* assesses the property of corporations with more than 10 shareholders and more than one class of stock at a 50-percent higher rate than other corporations. Thus, size and growth of corporations in the three States would seem to depend on economic conditions and risk taking and managerial ability of the owners.

All the States' restrictive statutes appear to permit research, educational, and religious organizations to engage in farming and some permit other activities such as nurseries and coal mining. Some such organizations do use a corporate form of business organization and can involve several thousand acres of farm or ranch land. The number of such permitted organizations is apparently not increasing, but farm growth may be, and for large farms, incorporation may be the preferred legal entity.

The Statutes' Effects

Since most of the statutes do not prohibit most types of farm corporations, future growth in the number of farm corporations in the restrictive States will probably depend on profit opportunities in agriculture there. The statutes, however, do restrict nonfarm investors, agribusiness, and nonfood corporations from certain corporate activities. A comparison of past growth in the numbers of farm corporations in the States with restrictive statutes and States without such restrictions may help to anticipate future growth.[14] The extensive information that would be required to answer questions about the specific effects of the statutes on growth of number of corporations is not available. However, a broad comparison in numbers of corporations by shareholder size and commodity is possible.

To determine if the statutes have been effective, I analyzed the percentage change in number of corporations and in sales by the narrowly held and widely held corporations both for the 10 States with statutes and the 40 States without statutes for 1974 through 1978.

Table 15 shows that statutes did not affect the rate of incorporation (the derived chi squares were stastically significant at the 99-percent confidence level) for the narrowly held corporations as between States with and without statutes. Table 3 shows that the rate of growth in such corporations in the 10 States with statutes was over 30 percent greater than in the other 40 States during 1974-78. For the most part, the statutes did not seek to retard formation of corporations with 10 or fewer shareholders. Given the rate of growth and lack of restrictions on narrowly held corporations (in all but North Dakota), we can conclude that the significant chi square suggests that factors other than the statutes were associated with the more rapid growth in the 10 States. The most likely factor was the nature of the family farms in the States that had seen rapid increase in land values and growth in size of farm business and who incorporated to try to reduce income tax costs and improve estate transfers.

The corporations of most interest in terms of restrictive State statutes are those with more than 10 shareholders (widely held). The null hypothesis tested was that there is no difference in the percentage change in corporate numbers and sales for the 1974-78 period between the States with and without statutes. The computed chi-square was less than the tabular value even at the 75-percent confidence level for change in number of corporations. Thus, one can accept the null hypothesis, at least tentatively, and conclude that the statutes made no difference in the rate of growth in numbers of corporations in States with restrictive statutes versus those without restrictive statutes.

Table 15—Chi Square for differences in rates of growth of corporations in 10 States with restrictive statutes and 40 States without statutes 1974-78

More than 10 shareholders	10 or fewer shareholders	All
	Change in Number	
1.1	7.06	6.7
	Change in Sales	
23.8	13.9	21.0

Note: Critical value of Chi square, 99 percent level, 6.63; 95 percent level, 3.84; 75 percent level, 1.32.

[14] Since North Dakota showed very few corporations during the 1969-78 period, we can conclude that the statute kept farm corporations out of the State. However, statutes in the other States were not as restrictive as North Dakota's.

While the change in numbers was not significant, the change in sales was highly significant at the 99-percent confidence level. Less weight, however, should be placed on the sales variable than on the numbers variable because of great differences in the components that result in agricultural sales. For instance, a feedlot operator who purchases 900-lb feeder steers and sells them at 1,100 lbs has a very large sales volume but may add less value to the product than a corn farmer who grows and sells corn.

In summary, while the question of effectiveness of the statutes in retarding large corporations is important in understanding what States can do to influence the future structure of agriculture, evidence to date is too limited to draw definite conclusions. This is the case since several of the States with restrictions on widely held corporations did not pass the statutes until 1974 and later and then made subsequent modifications. In addition, most of the statutes do not place outright bans on all corporations with more than 10 shareholders and some in fact encourage certain types of corporations with more than 10 shareholders. Some also classify certain types of corporations as family farm corporations if they have up to 20 or 25 related shareholders.

Comparisons in the Great Plains. Given the cohesive nature of agricultural operations in the Great Plains, it seems reasonable to compare changes in the number of corporations in South Dakota, Kansas, and Oklahoma (States with statutes) against similar changes in Montana, Wyoming, and Colorado (States without statutes in 1974-78).

In that 4-year period, the number of narrowly held farm corporations grew more in South Dakota (84 percent), Kansas (128.3 percent), and Oklahoma (126.8 percent) than in Montana (65.4 percent), Wyoming (39.2 percent), and Colorado (48.8 percent). The base number of corporations, however, with 10 or fewer shareholders was generally lower in 1974 in the States with the highest rates of growth: South Dakota (426), Kansas (629), and Oklahoma (287) versus Montana (1,184), Wyoming (528), and Colorado (845).

Since the provisions did not, for the most part, restrict narrowly held farm corporations, the provisions probably had little effect in retarding growth in such corporations. Thus, the greater percentage growth in the three States with statutes is related to the lower starting base number of corporations and other factors such as taxable income levels and potential estate taxes of the farms in the individual States.

The number of corporations with more than 10 shareholders grew slightly more rapidly from 1974-78 in the three States without statutes: Montana (116 percent), Wyoming (65 percent), and Colorado (19 percent), versus South Dakota (135.7 percent), Kansas (27.3 percent), and Oklahoma (26.3 percent). The base number of widely held farm corporations may again, in part, help to explain the differences in percentage increases. South Dakota had the lowest number in 1974 (14), Kansas had 33, and Oklahoma had 19. In the States without statutes, Montana had 25, Wyoming 20, and Colorado 48.

Firm conclusions cannot, however, be drawn that the restrictive statutes in the three States retarded growth in the number of widely held corporations. While South Dakota limited authorized corporations to 10 shareholders, the statute did not place a limit on the number of shareholders in family farm corporations. Thus all the increase in number of widely held corporations could have been by family corporations; or some of the increase could have been by widely held corporations that engaged in feeding of livestock, or by other exempted corporations such as those set up by research or religious groups. The Kansas and Oklahoma provisions limiting authorized corporations to 10 or fewer shareholders were probably responsible for keeping the growth in number of corporations with more than 10 shareholders to less than 30 percent. The increases were probably due to corporations authorized under the exemptions: coal mining corporations, for example, were authorized to farm their own land which had been strip mined for coal in Kansas; Oklahoma did not limit the number of shareholders in corporations engaged in food processing and in raising food products for such purposes; neither State restricted research and religious organizations.

Additional information on changes in the number of grain and livestock corporations in the three States with and three States without statutes can be derived from tables 16 and 17. From among the 14 major commodity groups, the 115.6-percent increase in all U.S. corporate grain farms with 10 or fewer shareholders during 1974-78 was surpassed only by the increase in tobacco farms and hog and pig farms, 141.1 percent (table 16). Both of those groups, however, had much lower numbers in 1974. The increase in cattle and calf corporate farms with 10 or fewer shareholders (80.3 percent) was about midway between the high and low percentage increases from among all commodity groups during 1974-78 (table 17). Grain and livestock corporations with more than 10 shareholders showed very little increase in numbers over the 4-year period. Grain farms, however, led the percentage increase at 23.5 percent.

The percentage increase in grain farms with 10 or fewer shareholders in South Dakota, Kansas, and Oklahoma was greater than the national average and also greater than in the States without restrictions (table 17). The average increase in number of corporate grain farms with more than 10 shareholders was significantly less in the three States with restrictions than in Montana (without restrictions) where such farms increased by more than 200 percent.

The average percentage increase in cattle and calf corporate farms with 10 or fewer shareholders followed a pattern similiar to that of grain: there was a greater percentage increase in the three States with statutes than the national average increase and the three States averaged much higher than the States without statutes. The average increase in the number of cattle and calf corporations with more than 10 shareholders was greater in the three States without statutes. More increase in the States with statutes may have been expected since the statutes for the most part did not restrict the widely held corporations that were involved in livestock operations.

Thus, it appears that the statutes may be effective in influencing future farm corporate growth where they target particular types of activity, as they do in Kansas and Oklahoma. Since Kansas and North Dakota significantly changed their statutes in 1981, a sharp rise in the number of new corporations may be expected in those States in the next few years.

The restrictions in eight of the States (those in fig. 9 with major restrictions) are of most interest in terms of future farm incorporation. Economic costs are important in South Carolina and West Virginia but the costs added by the

Table 16—Corporate farms by commodity group, United States, 1974-78

Commodity	1974		1978		Change, 1974-78	
	10 or fewer shareholders	More than 10 shareholders[1]	10 or fewer shareholders	More than 10 shareholders	10 or fewer shareholders	More than 10 shareholders
	Number				Percent	
Grains	10,548	534; 845	22,740	840	115.6	23.5
Tobacco	539	48; 98	1,852	53	243.6	0
Cotton	1,462	93; 142	2,193	94	50.0	0
Field seeds, hay, forage, and silage	4,399	251; 387	8,030	345	82.5	8.2
Other field crops	1,844	155; 213	3,331	180	80.6	0
Vegetables, sweet corn, melons	1,725	170; 209	2,920	203	69.3	7.4
Fruits, nuts, berries	3,183	354; 444	4,494	385	41.2	0
Nursery and greenhouse products	3,439	208; 303	5,337	244	55.2	0
Poultry and poultry products	2,045	346; 419	3,316	346	62.2	0
Dairy products	2,308	76; 154	4,291	141	85.9	0
Cattle and calves	12,893	783; 1176	23,248	950	80.3	0
Sheep, lambs, and wool	1,070	65; 89	1,752	79	63.7	2.6
Hogs and pigs	2,933	171; 281	7,072	267	141.1	18.1
Other livestock and livestock products	1,486	139; 185	3,135	168	110.8	3.7

[1] The first number includes the more than 10 shareholder and publicly held corporations. The second number adds to the first group of corporations that did not report the number of shareholders. The midpoint between the two numbers was used to determine the percentage change.

Sources: U.S. Department of Commerce, Bureau of the Census, *1974 Census of Agriculture*, Vol. 4, part 5. *1978 Census of Agriculture*. Vol. 1, parts 1-51.

statutes probably will not substantially retard incorporation. Nebraska's requiring a charter of farming and ranching corporations will not likely keep many new corporations from operating in the State. Texas farms and ranches can continue to incorporate so long as they are not involved in meatpacking or make passive investments in agricultural land.

In seven of the States of most interest (Iowa, Kansas, Minnesota, Missouri, North Dakota, South Dakota, and Wisconsin), family farm corporations are permitted, but some restrict the number of shareholders. North Dakota, for instance limits a family corporation to 15 related shareholders, while Oklahoma limits domestic family corporations to no more than 10 shareholders unless the shareholders in excess of 10 are related. For the most part, the shareholder restrictions will not retard the formation of new family-type corporations. Shareholder limitations, if retained, may hinder some family corporations from expanding in a generation or two if more than the permitted number of shareholders is needed to fund expansion. In general, 15 shareholders seems to be an adequate number to finance expansion from shareholder equity and debt funding.

Table 17—Corporate grain and livestock farms in selected States with and without corporate farming laws, 1969-78

State	Grain: 10 or fewer shareholders	Grain: More than 10 shareholders[1]	Cattle and calves: 10 or fewer shareholders	Cattle and calves: More than 10 shareholders[1]
	Number			
1974				
South Dakota	260	8; 9	352	12; 15
Kansas	474	13; 31	455	25; 45
Oklahoma	123	3; 11	226	14; 27
Montana[2]	666	8; 12	1,014	22; 35
Wyoming[2]	NA	NA	476	19; 22
Colorado[2]	440	12; 23	575	26; 44
1978				
South Dakota	448	20	605	26
Kansas	1,098	21	923	26
Oklahoma	315	9	520	18
Montana	1,267	29	1,498	47
Wyoming	NA	NA	626	31
Colorado	527	16	765	31
	Percent			
Change, 1974-78				
South Dakota	88.7	135.3	71.9	92.6
Kansas	131.6	0	102.9	0
Oklahoma	156.1	28.6	130.1	0
Montana	90.2	205.3	47.7	64.9
Wyoming	NA	NA	31.5	51.2
Colorado	19.8	0	33.0	0

NA = Not available.

[1] The first number is corporations with more than 10 shareholders and publicly held. The second number adds to the first group of corporations those that did not report the number of shareholders. The midpoint between the two numbers was used to determine the percent change.

[2] Did not have restrictive statutes.

Source: U.S. Department of Commerce, Bureau of the Census, *1974 Census of Agriculture,* Vol. 4, part 5. *1978 Census of Agriculture* Vol. parts 1-55.

Most of the eight States limit the number of shareholders in other authorized corporations and several require that most of the income be from farming or ranching. The effect of the limitations is to impede formation where a large number of people in a community might become passive owners in a new corporation or where organizers would otherwise try to obtain a large number of shareholders from a region or across the country.

The shareholder limitation should not create a major barrier to new corporations, but may constitute a barrier to large-scale expansion of the restricted corporations. Requiring that most of the income of the corporation be from farming will tend to keep out of farming corporations involved in land operations (e.g., mining and extraction, unless specifically exempted) and corporations involved in other parts of the food system and other industries. Small numbers of shareholders of such corporations can, however, start new corporations from their own funds; and in some States, a corporation involved in other activities can be a shareholder in the new corporation.

With the exception of the Iowa feedlot restriction, the statutes do not prohibit food processors from integrating into at least some types of livestock production. For the most part, food processors are not restricted from contracting with farm producers for their farm product needs. While there may be no new developments in the immediate future to encourage a major new integration trend, the statutes for the most part do not completely block such activity; the trend toward integration is expected to continue.

In general the statutes provide some protection for the family farm from certain types of large corporations. The statutes do not protect the family farmer, whether organized as a sole proprietor, partnership, or corporation, from other farmers and farm-related investors who generally provide the most competiton for farm resources. In addition, outside owner corporations, whether involved only in farm operations or in other sectors of the economy, are not totally prohibited by statute from engaging in farming activities.

Economic conditions in agriculture probably had the most effect on the number of farms that incorporated between 1978 and 1982. Farm income stayed relatively high in 1979 but declined in 1980 and continued low through 1981 and 1982 for most commodities. Thus, in 3 out of the 4 years, incorporating to reduce income taxes would not appear particularly important, especially in light of reduced individual income tax rates that went into effect in 1982. Changes in the restrictive statutes, except in North Dakota and perhaps in Kansas, may not have been significant enough to affect the rate of farm incorporation where incentives to incorporate exist. Farms with strong incentives will probably continue to incorporate even in the face of low farm income and changes in income tax rates.

Conclusions. The State statutes were enacted in almost every instance as an attempt to help the family farm. The need for such special treatment of the family farm has been debated for more than half a century without clear resolution. Federal policymakers continue to rely on commodity programs to preserve and enhance the family system of farming; related policies, such as payment and acreage limitations, have also periodically been used to encourage family farms. Congressional hearings have been held on the need to restrict corporate farms, but no further action has been taken due in part to the cost of interpreting and enforcing the laws and in accurately estimating what the income and wealth distribution effects would be. Additional unknowns involve differences in responses between corporations and family farms in developing and conserving resources.

Property law is chiefly a State jurisdiction and as such the States have enacted the statutes. The diversity of the existing statutes reflects not only the agriculture in the States but also the economic and political power of State and national organizations to enact the provisions. State legislators have expressed interest in protecting the family farm from large agribusiness firms and in maintaining a competitive market environment. However, accomplishing this through prohibitive statutes appears to be a difficult task. Technological change and shifting demand for farm products are continually occurring and a prohibitive statute in one State may cause production to shift to another. For instance, forbidding contract production of corn or soybeans in a State could elicit a decline in production in that State and an increase in production in other States if farm producers and contractors see advantages to producing under contract. Likewise, limiting the number of shareholders in a corporation may tend to preserve family farms but may retard development of agriculture within a State. Some ventures, by the nature of the risk and potential returns, may work best when funded by many unrelated shareholders. States may, however, be willing to forego some economic development in order to be portrayed as preserving and enhancing a family system of farming.

Given the issues surrounding the statutes, the strongest observation that can be made, at present, is that statutes can be effective in preventing a certain type of activity if sufficient resources are available to enforce the statutes. Broad legal provisions that try to encompass all desirable family farm aspects in all types of agriculture are probably too complex and too costly to enforce. State enforcement of the statutes has not been analyzed.

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Protecting the Family Farm

The Nebraska legislature, in enacting the State's reporting requirements for farm corporations, declared that its intent was

> to nurture the free enterprise system to provide for the continued existence of the family farm against potential monopolization of the agricultural industry, and . . . (to pursue) documented evidence of any anticompetitive forces at work within the agricultural industry in Nebraska . . . (*20*).

That appears to be the intent behind most State legislation restricting corporate ownership and operations of farms: to preserve and protect the family farm as the basic unit of production and to maintain competition in agriculture. Some legislatures have also added that the statutes are designed to protect family farms against monopolization of the agricultural industry and to prevent vertical integration of nonfarm corporations into farm production. With the exception of North Dakota, there have been few restrictions on family farms that incorporate.

The general intent in enacting the statutes was to exclude large outside agribusinesses and conglomerates from direct production and from controlling farm production locally, regionally, and nationally. Corporations were apparently singled out, not because of their form of business organization, but because of their size; large business firms usually use the corporate form of business organization.

Another important objective of the restrictions was to "stem the influx" of investments in agriculture by "nonfarm outsiders." Nonfarm operators are perceived as being undesirable in certain areas of the country and in certain types of farming activities and are resented by those who believe that farms should be owned, operated, and controlled by individual families who buy and sell through open competitive markets. More specifically, the general focus of some of the laws was on nonfarm operators, nonfarm investors, and those who integrate into farm production. More recently, pension trusts making tax-free investments in agriculture have become of concern. Other than in the Texas statute, the restrictions were generally not placed on "farm insiders," that is, farm operators, retired farmers who continue to own farmland, and heirs of farm operators.

Several specific types of nonfarm investors and firms were the objects of the restrictions:

- Nonfarm investors where individuals or syndicates with large equity and credit positions who are interested in farming only as a secondary investment but who retain sufficient control to preserve and enhance their investments.

- Food and fiber firms, such as suppliers, marketers, processors,transporters, wholesalers, and retailers, presently integrated into farm production either through ownership or contractual arrangements and who have finances and incentives for expansion.

- Large nonfarm firms that may or may not be involved in food and fiber system activities but are not integrated into farm production. Such firms are usually involved in other sectors of the economy, such as oil and gas production, transportation, retailing, manufacturing, or insurance.

The States that enacted the statutes were, for the most part, not dominated by large corporate farms. Only in Texas did sales of widely held corporations exceed 10 percent of total farm sales within the State between 1969 and 1978.[15] Other States without restrictive statutes had higher concentrations of corporate farm sales. In enacting their statutes, therefore, it seems that the States were responding more to a perceived than to an actual threat to the family farm.[16]

The State restrictions vary. Some virtually prohibit large corporations from owning farmland, operating farms, and vertically integrating into farm production. Others impose restrictions only on specific activities or commodities. Most of the statutes contain exceptions that allow authorized corporations (primarily family farm corporations) to own and operate farms. Some of the statutes impose only minor restrictions that probably do not deter prudent investors from accomplishing their objectives. The statutes are summarized in detail in the final chapter of this publication.

While the statutes impose substantial limits on corporate farming, they do not insulate the family farmer from large

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[15] Neil Harl observed that, as of 1975, no "giant" corporations had been able to compete successfully in the Midwest (*7*). He suggested that the success of larger operations in other parts of the country is attributable to uniqueness of risk (for example a combination of production, price, and size of dollar exposure), capital infusion, economies of scale, and type of management required. Yet, the States with statutes, in general, are specialized in production of commodities for which no "giant" corporations have been able to successfully compete.

[16] For an example of such a contract, see (*2*).

Concern for Family Farm in Other Jurisdictions

Efforts to regulate corporate farming have not been confined to the States that currently have statutes. Over the past several years, legislation to restrict corporate farming activities has also been introduced in other States, namely, Tennessee, Oregon, Montana, Kentucky, Indiana, Illinois, and Colorado. Those States, however, have not enacted such legislation. In addition, Federal legislation has been periodically proposed, but not enacted. For example, the Family Farm Antitrust Bill (H.R. 941) was introduced in Congress in 1977 to prohibit large nonagricultural firms from engaging in farming. Such Federal legislation would likely require a large "police force" for enforcement and, therefore, enactment is unlikely in the near future.

enterprises, either corporate or otherwise. It is important to note that the statutes uniformly attack the problem by restricting corporate involvement in agriculture. None of the statutes prohibits farming operations conducted by other business organizations such as business trusts or partnerships. Such organizations, free to engage in the activities that are barred to corporations,[17] may provide competition equal to or greater than that from incorporated businesses. That is particularly the case where there are various incentives, such as achieving economies of size, capital appreciation, or income tax avoidance, for investing in the farm sector and for producing farm products on a large scale. Most of the statutes are also silent on contractual arrangements between suppliers, processors, and farmers.

Some of the statutes are probably effective in prohibiting corporations from owning farmland through noncorporate intermediaries. At least, the wording of the statutes that prohibit corporations from owning any interest in farmland, "directly or indirectly . . . whether legal, beneficial or otherwise" (*15*), indicates a legislative intent to prevent circumvention of the statutes in this manner. In the absence of such language, however, a corporation may be able to own land through a partnership or trustee (16).

In addition to restricting corporate ownership of farmland, many statutes also prohibit corporate operations of farms. Such provisions appear to be intended as an additional guard against vertical integration in the food industry. Food-processing corporations, however, are still free to contract with farmers for their production. Since the processor is often in a strong bargaining position, such contracts may be very favorable to the processor and impose relatively harsh conditions on the farmer (*1*). The corporate farm legislation does not provide a remedy for the inferior bargaining position of the family farmer. Nevertheless, the statutes in varying degrees do seek to preserve a place in the chain of production for the independent farmers and, to that extent, provide protection for the family farmers.

Not every farmer is assured of a protected position from corporations, however. The degree of protection depends on the type of product produced and the State in which the farm is located. None of the States prohibits corporate production of all agricultural, dairy, and livestock products. The Texas statute limits only vertical integration in the cattle industry. Similarly, Iowa prohibits only certain beef and pork processors from also engaging in the feeding of livestock.

On the other hand, Oklahoma exempts corporations engaged in livestock and poultry feeding, food processing, and food canning from the general prohibition imposed on corporate farming and ranching. Wisconsin and Kansas have enumerated specific products that corporations are forbidden to raise; other production is not regulated. Minnesota, Missouri, and South Dakota have enacted broad prohibitions, but have also provided numerous exemptions for certain producers. Given the differences among the various statutes, it is likely that a particular corporation may find its activities proscribed in a few States but allowed in many others.

Most of the statutes permit independent farmers to incorporate under the family and authorized farm exemptions. Such exemptions vary from State to State, however, and the character of the corporations permitted under these exemptions may bear little resemblance to the traditional family farm. Minnesota's family farm exemption is probably one of the best in exempting only true family-run corporations by its requirement that at least one family member reside on or actively operate the farm.

[17] Some States, however, restrict business trusts, which in Kansas, for example, are viewed as subject to the same regulatory provisions as corporations (*12*).

The corporate farming acts do not protect the individual farmer either from potentially large noncorporate business organizations or from all corporate farm businesses. In addition to specific exclusions, exemptions, grandfather clauses, and forms of legal business not restricted, firms and nonfarm investors can still legally accomplish some of their general economic and financial objectives (*18*). Large corporations, not directly involved in farm production (for instance, suppliers and farm product exporters), can engage in production and market contracting with farm producers in most of the States with statutes. When production under contract occurs, production, marketing, and price risks along with major management decisions may be shifted to the contractor. Such contracts may leave the farm producers with limited managerial freedom but yet require them to supply large amounts of production capital in the forms of farm real estate, machinery, equipment, and labor. Some farm producers are willing (in some cases, eager) to accept production or marketing contracts, but at the same time want to prohibit the integrator, nonfarm investor, and corporation from owning farm resources.

The examples provided elicit two observations. First, the States with restrictive statutes are not all unanimous in their emphasis on those aspects of agricultural production that they set out to protect. Part of the difference among statutes can probably be attributed to the different agricultural production in the States and the importance of those different commodities to the States' economies. Secondly, even in those States with the more inclusive statutes, the exceptions and exemptions written into the laws probably provide enough scope for corporations and investors to accomplish at least some of their objectives. Taken individually or as a group, the statutes contain enough exemptions and exclusions that they do not themselves appear to guarantee a future independent family farm structure.

The statutes will likely have a mixed impact on preserving an independent family farm structure in the States with statutes as well as in States without statutes but with similar agricultural resources. The significance of the statutes probably lies not so much in their specific provisions and exclusions as in their symbolism (*18*). If that is the case, an abuse of economic power by large firms or the excessive use of legally permissible avoidance techniques (like financing and contracting for activities otherwise forbidden or setting up noncorporate organizations not subject to the statutes) could incite the same political forces that enacted the statutes. If that happens, another round of "tighter and more restrictive" statutes may give at least temporary protection to the independent family farm (*18*).

Accord with Other Statutes

The effectiveness of the State statutes may be affected by other State and Federal regulations and programs that can help or hinder States from accomplishing their objectives. Credit programs (discussed below) for young and beginning farmers support the general intent of the restrictive corporate statutes, as does the Farmers Home Administration, which lends to smaller farmers for farm real estate, farm operations, and rural housing, as well as for disaster relief. Regulations of the Packers and Stockyards Administration, and the Agricultural Marketing Service, are similarly aimed at restricting integration of custom feedlots and meat-processing operations. The regulations may encourage independent feeders and discourage large integrated operations.

The Farm Credit Administration, on the other hand, although providing loans to family farmers can also lend to corporate farms and nonfarm investors, firms that compete with family farms. Similarly, State and Federal banking regulations may have a mixed impact on the statutes; banking regulations, particularly loan size limits and interest rate usury laws, may indirectly benefit the formation and operation of corporations.

State usury laws, for example, often apply only to individuals and not to corporations, the intent being to protect the individual from high rates of interest. In times of tight money, however, lenders will be reluctant to finance individual loans at a low interest rate when they can receive a larger return by investing in financial instruments or by lending to corporations. The recent rapid development of money market funds that pay much higher rates than local banks can pay to conventional savings accounts has also contributed to farmers' paying substantially higher interest for operating funds. As rapid structural change continues in financial institutions, analysts are suggesting that a return to relatively low-cost rural bank loans will not occur.

Federal Reserve Board policy on the availability and cost of credit affects banks in both rural and urban areas and can thereby affect farms as well. For example, a lack of funds at competitive rates in rural areas could favor large farms that can arrange for borrowing from urban centers. Federal income tax regulations and rulings are thought to have attracted nonfarm investors to farming, especially regulations regarding cash acounting, current expensing of costs, loss carryback and carryforward, capital gains, and combined farm and nonfarm income accounting. Recent laws and rulings in the environmental and health and safety fields apparently differ in their effects on farm firms and may encourage or deter outside investors. For instance, the often high cost of meeting environmental standards may discourage both small and large livestock producers from expanding or even staying in business.

Federal farm programs that directly or indirectly influence farm commodity prices can encourage nonfarm investors to participate in farming. The Government's import and export policies on agricultural commodities and food can make farm investments competitive with other alternatives.

In addition, there are many State and Federal research and education institutions that are funded by the legislatures. These institutions, with private firms, have developed technology that is thought to provide incentives for farm enlargement and, at least indirectly, to help nonfarm investors obtain competitive returns. New technology is intended to increase farmers' efficiency. The cost of applying the technology, however, as in the case of larger and more productive tractors and farm equipment, or with mechanizing the production of broilers, often exceeds the small farmer's capability. The small farmer then, com-

State Restrictions on Alien Investments in Farming

Some States, in addition to restricting farm investments by nonfarmers and by corporations, also limit farm investments by foreigners. In 1981, 30 States restricted alien ownership of land. Many of those States have only minor restrictions, but others completely prohibit alien ownership or acquisition of land.

Concern about alien investment in U.S. agriculture has been associated with the large surplus of investable funds of some oil-exporting nations and the possibility that they might invest in farmland, farming operations, and other parts of the U.S. food and fiber system. Such investment in our farm sector has apparently not occurred to any noticeable extent; more commonly, West European and Canadian investors buy U.S. farmland (*2,3*). Foreign investment in U.S. agriculture is made for various reasons, such as the stability of the U.S. economy, the increasing longrun demand for farm products, and prospects for real estate value appreciation. In addition, U.S. farm management companies will manage farms for absentee owners at relatively low costs.

Several studies have addressed Federal and State restrictions on alien investment (*11,13,17,18,19,24*). In November 1981, 30 States were reported to have some type of law restricting alien ownership of land: Arkansas, California, Connecticut, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Virginia, Wisconsin, and Wyoming (*13*).

Current restrictions on aliens vary greatly in the degree of their severity. Hawaii, for example, merely restricts acquisition of State lands by aliens. Other States restrict acquisition of land generally or agricultural land specifically, but some States, Maryland, for example, restrict only enemy aliens. Indiana and other States restrict the amount of acreage that can be held. Minnesota completely prohibits alien ownership or acquisition of land, with some exceptions. Thirteen States have laws restricting foreign business entities from owning land or engaging in farming: Arizona, Iowa, Kansas, Kentucky, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wisconsin. Most of these States restrict the ownership of agricultural land, but some restrict the ownership of real estate generally, while others restrict the purchase only of State lands.

pelled to use less efficient machinery, may be placed at a competitive disadvantage.

Business Uncertainties

In enacting legislation that restricts the activities of large corporations, the States may inadvertently create an atmosphere of general uncertainty in the business sector. Such uncertainty may affect the States' economies more than the actual laws themselves. Besides circumscribing the area of permissible corporate activities, such regulations may discourage corporate activities that are allowed or exempted and may discourage other corporations from moving to States with such regulations.

Businesses need a relatively stable commercial environment in order to grow and provide their services most effectively and efficiently. Regulatory statutes and the litigation and uncertainty accompanying them may reduce outside investment and hinder the allocation and efficient use of business resources. Inevitably, such impacts will also affect consumers. For the firm itself, restrictive statutes create uncertainty about permitted future use of resources. Especially important is whether the firms' current and contemplated investment in plant, equipment, and personnel can be used in the most profitable manner.

Corporations will probably avoid States with strong corporate restrictions and States where a new round of more restrictive statutes or unfavorable court rulings is highly probable. In abandoning such States, the corporations will probably choose other States, or countries, for their farming activities. Even large family farms that want to grow larger may leave a State or start new operations in another State with laws more conducive to growth. Such corporations may have provided the jobs, tax revenues, and private sector growth that the State wanted to encourage.

Corporations exempted by the laws may similarly choose to go to another State or country without such restrictions. That would be expected especially if a firm believes that, by horizontal expansion or vertical integration, it will increase its efficiency and net returns. In causing an exodus of businesses, the State with the restrictive statutes loses investment money and managerial and entrepreneurial ability that may be important.

Some agricultural projects, like timber development and irrigation of large tracts undertaken to make an area suitable for farming, require large firms that are able to accept high risks and endure negative cash flows and returns on investment for several years. Other projects may require large firms to achieve the greatest efficiency in use of developed resources over a period of years. For example, a watershed may be farmed most efficiently in large tracts with continuous rows or contouring. If the watershed remained in smaller tracts, each operated by different farmers using different tillage methods, the diversion of the runoff from its natural flow would probably increase silting and erosion.

Thus, in general, if the void created by the loss of prohibited firms is not filled by others, the State will lose jobs and gross income, and may handicap development of its resources. The efficiency of the farms and food processors may be reduced. Family farms that cannot afford to use the larger, more efficient machines and equipment will have to use smaller farm machines, which often require more labor. In addition, as in the watershed example above, smaller farmers may not be well enough financed and capable of developing soil and water resources to their maximum production potential with available technology. Where vertical integration is prohibited, the processor may encounter inefficiencies in procuring supplies and in using processing machines, labor, and storage facilities. The farmer may be required to add extra storage facilities to hold storable commodities for better product prices. Extra transportation facilities may be required to transport farm commodities from the farm to the public market and, in turn, to the processor.

Since businesses require a stable climate in which to operate, the uncertainties posed by the statutes might be mitigated somewhat by some of the following suggestions. Restrictive legislation, if necessary, needs to be easily understood and enforced in a uniform manner. Thus, restrictions are probably most effective when placed on specific activities, like livestock feeding by meat processors or purchasing farmland by conglomerates not engaged in food and fiber production, rather than on more general and open-ended farming activities. In addition, farm investor uncertainty could be reduced if time limits were placed on statutes so that firms could be reasonably certain of being allowed to amortize their investments. Business firms might receive assurance, in the absence of court rulings, that the statutes would not be changed, for example, for a period of 3 or 5 years. In addition, the public interest may best be served by placing time limits on statutes to assure that they are reviewed periodically in light of new developments in the agricultural sector.

Reporting Laws and Credit Programs

The preceding sections of this report suggest that the need for State restrictions and prohibitions on corporate farming is based on very little data and that, although the restrictions seem to enjoy some short-term success in accomplishing their goals, their long-term implications for U.S. agriculture are less certain and may be less sanguine. Some States too recognize the lack of good data and before enacting any major restrictions (or in conjunction with their restrictions) have enacted reporting laws to help them augment their data to ascertain the extent of corporate involvement in their farming communities. At the same time, some States are promoting more direct help for family farms through credit programs, instead of the (assumed) indirect aid of reducing corporate competition. Such credit programs offer low-interest loans to only certain classes of family or sole proprietorship farms.

Several States require detailed public reporting by farm corporations; Iowa's reporting law also includes partnerships. The available Federal data on corporate farming are not sufficiently detailed to allow a complete assessment of the nature and extent of corporate farming. Because of that, States that are concerned about the topic may wish to use reporting laws to obtain a more accurate picture of the extent of corporate farming activities. The States can require agricultural firms to report their landholdings, operations, shareholders, etc. By doing so, State legislators will be able to ascertain better which aspects of agriculture require legislative protection. The legislature can then enact a law to meet a specific need rather than a general law that may unnecessarily restrict a firm's operations.

Until such information is fully and accurately reported and analyzed, any attempts to regulate corporations and non-

State Credit Programs for Family Farms

The following descriptions of credit programs offered in 11 States are summarized from Harl (*8*):

Alabama—The Alabama Agricultural Development Authority, created in 1980, is authorized to issue financial instruments free of State taxes and to make the proceeds available through lenders for farm real or personal property used for farming, ranching, or processing of agricultural commodities when such activity is customarily engaged in by farmers as part of farming.

Alaska—Since 1953, Alaska has had a program to promote development of agriculture by use of an agricultural revolving loan fund providing long-term, low-interest loans. The law authorizes loans of up to $500,000 to individual resident farmers, homesteaders, and partnerships, or corporations composed of farmers and homesteaders. Chattel loans are limited to $300,000 and a period of 7 years, while short-term loans of up to $200,000 are authorized.

Georgia—The Georgia Residential Finance Authority, since 1980, has been able to make loans to family farmers. Applicants must receive at least 50 percent of their combined family income from operation of a family farm.

Hawaii—Hawaii established in 1959 a farm loan program to complement the Farmers Home Administration in promoting agricultural development in the State. Appropriations are made available through a farm loan revolving fund. Farm ownership and improvement loans may be made for a 40-year term and cannot exceed $100,000. Farm operating loans of up to $75,000 for 10 years can be made as can emergency loans of up to $100,000. Soil and water conservation loans of up to $35,000 for 20 years for an individual and up to $200,000 for 40 years for an association can be made. Operating and facilities loans for cooperatives and corporations involved in marketing, purchasing, and processing are also available.

Iowa—The Iowa Family Farm Development Authority, created in 1980, can issue $150 million of tax-exempt State bonds. The authority can approve loans of up to $500,000 for agricultural land or improvements and up to $125,000 for depreciable agricultural property for qualified beginning farmers. An applicant must have a net worth of less than farm investors will probably not be successful. Although legislation that is inadequately framed may achieve its narrow goals, it will probably fall short of achieving the wider goals of assuring the orderly production of agricultural goods in an equitable manner through an independent system of family farms.

Some States (Iowa, Kansas, Minnesota, Missouri, Nebraska, South Dakota, Wisconsin) require that all farms located within the State file periodic reports disclosing certain aspects of ownership, size, and crops. Such reporting laws are a potential means of providing specific data to be used in analyzing the effectiveness of and the need for restrictive statutes. Reporting laws may also be used to provide information for economic development programs in a State. Reporting laws can provide periodic information on the number of various types of businesses in farming, the changes that occurred from the previous reporting period, and the relative importance of each type of farming organization in controlling a State's farm resources and farm output. With such information, the States can better determine if restrictions are required or if existing ones should be modified.

Seven States currently have reporting requirements: Wisconsin, Minnesota, South Dakota, Nebraska, Kansas, Missouri, and Iowa. While the reporting requirements have existed for several years, they have not been appraised at the Federal level on the quality of the data, the rate of compliance, or the use that the States make of the information.[18]

Lacking reports that cut across State lines, the States are not in a position to enforce their laws where firms may be involved in prohibited activities in other States. For instance, while a corporation's activities in Minnesota may

[18] The initial results from Iowa, Minnesota, and Nebraska have been studied (*5,14,21,22*).

$100,000 to qualify for a loan.

Louisiana—The Louisiana Family Farm Credit program, created in 1980, authorizes a 10-member council to guarantee farmland purchase loans through lenders, including sellers of property where the borrower has a net equity of less than $100,000. The council may pay up to half the amount of the current prime interest rate for the borrower for up to 10 years. The total outstanding obligations with respect to loan guarantees and payment adjustments cannot exceed $10 million.

Maryland—A Farmers Disaster loan program was established in 1977. Farmers who suffer losses to farmlands, buildings, crops, or livestock due to natural disasters may obtain preferred interest rate loans to rebuild, repair, or recover their property. The loans may be for up to $15,000 for as long as 5 years.

Minnesota—The Minnesota Farm Security program, enacted in 1976, can guarantee up to 90 percent of loans through commercial lenders or for seller-sponsored loans through contracts for deed sales. The program was designed to help new and beginning farmers with a net worth of less than $75,000.

North Dakota—The North Dakota program to help beginning farmers is unique among the State programs. A 1979 statute provides that 50 percent of the ordinary and capital gains realized from the sale of land to a beginning farmer, up to $50,000, may be excluded from State income tax. Also, 50 percent of rental income not to exceed $25,000 from land rented to a beginning farmer may be excluded from taxation.

Texas—The 1979 Family Farm and Ranch Security Program statute permits the State to guarantee agricultural loans. The program was funded by issuance of $10 million in general obligation bonds. Loan guarantees may be through conventional lenders or seller-sponsored loans. To qualify, applicants must have a total net worth of under $100,000.

Wyoming—The 1921 Wyoming Farm Loan Board Program has been amended several times to foster and encourage agriculture, dairying, and livestock raising in the State. Thirty-year loans of up to $150,000 may be made for the purchase of farmland, equipment, livestock, construction of buildings, or liquidation of mortgage debt. Funds for the program are derived from "permanent land funds" of the State, 25 percent of which are invested in farm loans.

be in compliance with Minnesota laws, its activities elsewhere may put it in the category of an unauthorized corporation in Minnesota. Without access to a collation of the reports of all States, however, Minnesota, in the above example, may be unable to determine the corporation's interstate status.[19]

The Federal Government could also use the State reports to improve compliance with the required but less frequent Federal census of agriculture. The information and analysis from the State reports can be used in designing census questionnaires so that emerging developments of regional or national importance are enumerated and analyzed. In addition, the analysts who work with the State data would represent a new source of expertise on the structural effects and significance of corporate farming, integration, contracting, and related issues and problems.

While there have been many Federal efforts to help beginning farmers and those with limited resources, some States too have recently turned to loan programs. Because capital and credit needs for family farms have been rapidly increasing, young and potential farmers have been able to start farming only with substantial help—for instance, from parents or friends. Eleven States established State lending programs and other programs to help people enter farming (8, 10). Most of the programs are designed to provide low-interest financing for farmers who cannot obtain sufficient credit from other sources.

While State farm lending programs date back to at least the thirties, those recently put in place are generally designed to help new farmers. State programs for the most part are divided into those in which the State provides a loan guarantee and administers the program through an existing State agency and those where the State provides direct lending and administers the program through a specially created agency.

States obtain funds for the programs by direct appropriations or by using the State's authority to issue general obligation bonds. They are generally issued as tax-exempt revenue bonds under provisions in the Internal Revenue Code (*10*). Use of such bonds may reduce the interest rate to borrowers by as much as 20 percent compared with commercial lender rates. Expansion of State programs issuing tax-exempt revenue bonds is not necessarily assured and may even be curtailed. Issuance of such bonds appears to reduce Federal tax revenues and also provide an indirect "off line" source of funds at a time when both tax revenue losses and Federal influence on credit availability are under study.

[19] For a lucid treatment of this problem, see Zumback and Harl (25). While the article focuses on alien investors, the principles developed are similar for domestic entities.

To qualify for such loans, the applicants and their immediate families cannot have a net worth above $50,000-$100,000, must be State residents, and must have access to adequate equipment, machinery, livestock, and operating capital to carry out the proposed farming operation. In addition, the applicants generally need to show that they have sufficient experience or training in agriculture to succeed with the proposed farming activity, that the farming activity will be the principal occupation and source of income, and that the activity will generate sufficient funds to repay the loan.

The prospective borrower, depending on the States' program, works with local lending sources in obtaining the funds, such as the Farmers Home Administration, commercial (lenders including banks), and sellers who provide loans through contract for deed sales.

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Summaries of State Laws on Corporate Farming

This section summarizes State corporate farm laws in effect at the end of 1981. Ten States have statutes that restrict certain corporations' ownership of farmland, farm production, or vertical integration in farming. In addition, West Virginia requires certain farm corporations to obtain a certificate and South Carolina assesses corporate farmland at a higher tax rate than that for other farms. All States allow family farms to be incorporated. The most encompassing statutes are presented first, followed by those with less scope and inclusiveness. The sources used for recent changes in the laws are referred to as Harl (*2*) or Mayer (*3*).

North Dakota

Effective July 1, 1981, family-held farms and ranches can incorporate if they have 15 or fewer shareholders (*17*).

Farming or ranching is defined to mean:

> "cultivating land for production of agricultural crops or livestock, or the raising or producing of livestock or livestock products, milk or dairy products, or fruit or horticultural products. It does not include production of timber or forest products, nor does it include a contract whereby a processor or distributor of farm products or supplies provides grain, harvesting or other farm services" (*18*).

Each shareholder in a North Dakota farm or ranch corporation must be related to every other shareholder as parent, child, grandparent, grandchild, brother, sister, uncle, aunt, nephew, niece, great grandparent, great grandchild, first cousin, or must be a spouse of a person so related. Each shareholder must be an individual. However, stock in a corporation can be held by a trust for the benefit of an individual or class of individuals who are related to a shareholder within the degrees of kinship specified in N.D. Cent. Code Sec. 10-06-07(2). Neither a trust nor an estate may be a shareholder if the beneficiaries of the trust or the estate together with the other shareholders and members are more than 15 in number.

In addition, the officers and directors must be shareholders actively engaged in operating the farm or ranch and at least one of the shareholders must reside on or operate the farm or ranch. A corporation must have at least three directors. Therefore, a North Dakota farm corporation must have a minimum of three shareholders who are actively engaged in operating the farm or ranch. At least 65 percent of the corporation's gross income over the previous 5 years, or for its term of existence if less than 5 years, must have been derived from farming or ranching operations and no more than 20 percent of the corporation's gross receipts can come from rent, royalties, dividends, interest, and annuities. The 20-percent gross income provision could be a problem where rents from farmland or other farm property are more than 20 percent of the gross income. Royalty income to a corporation may be nonexistent if mineral rights retention is kept by an individual owner when transfer of property is made upon incorporation.

Other provisions of the 1981 Act treat ownership of real estate and its use for security. Only domestic corporations are eligible to own real estate and engage in farming or ranching under the 1981 Act. A "domestic corporation" is a corporation organized under North Dakota law and chartered by the North Dakota Secretary of State (*19*). Before a corporation can commence farming or ranching in North Dakota, the North Dakota Secretary of State must inspect the initial report and certify that the corporation's proposed operations comply with N.D. Cent. Code Sec. 10-06-07. The 1981 law specifically permits a domestic or foreign corporation to acquire farm or ranch land as security for indebtedness by process of law in the collection of debts or by any procedure for the enforcement of a lien, but any land so acquired must be disposed of within 3 years (*20*). During the 3-year period, the land must be leased to persons actually engaged in farming or ranching.

The 1981 Act contains precise provisions for the protection of minority shareholders and dissolving of a corporation if qualified buyers cannot be found for shareholders wanting to sell as well as provisions for corporations that are in violation of any of the provisions of the act. Unless a written agreement governs the terms and conditions for disposition of stock, a shareholder who owns less than 50 percent of the stock of a farm corporation and wishes to "withdraw from the corporation" must first offer the stock to the remaining shareholders in proportion to the value of the shares held. Any one shareholder can purchase the stock of a withdrawing shareholder if all shareholders do not exercise their rights. If the shareholder fails to purchase the shares, the corporation may purchase them. If the corporation does not purchase the shares, then the withdrawing shareholder may sell the stock to any person eligible to be a shareholder. If no purchaser can be found, the withdrawing shareholder may bring court action to dissolve the corporation and the assets can be used to pay corporate liabilities with the remaining assets distributed to the shareholders.

A corporation found to be in violation of the 1981 law has 1 year to divest itself of any farm or ranch land owned or leased and to cease all farming and ranching operations (*21, 2*).

Minnesota, Missouri, South Dakota, Wisconsin

Since 1973, Minnesota, Missouri, South Dakota, and Wisconsin (*22*) have enacted statutes restricting corporate ownership and operation of farms. The purpose of the South Dakota law, as well as that of the statutes in the other three States, is similar to that of North Dakota's Corporate Farming Law prior to July of 1981. The first section of the South Dakota statute states " . . . the Legislature recognizes that the existence of the family farm is threatened by conglomerates in farming" (*23*). The statutes are thus intended to protect the traditional family farmer from corporate competitors, or more specifically, conglomerate organizations. Because the provisions of these statutues are similar, they are discussed together. However, some significant differences among related provisions in the statutes are pointed out; these differences may have substantial effects on the operative scope of the otherwise analogous statutes.

Like the earlier North Dakota statute, the four States restrict both corporate farming activities and corporate acquisition of interests in agricultural land (*24*). The Minnesota, Missouri, and South Dakota statutes restrict corporate production of "agricultural crops," livestock and livestock products, poultry and poultry products (except Minnesota), milk and dairy products, and fruit and other horticultural products. Forest products are not restricted under the acts; nor are spraying, harvesting, and similar services provided under contract by processors or distributors of farm products or supplies (*25*).

The Wisconsin statute (*26*) specifically prohibits corporate production of dairy products (not including processing such dairy products), cattle, hogs, sheep, wheat, field corn, barley, oats, rye, hay, pasture, soybeans, millet, and sorghum. While Wisconsin prohibits corporate ownership (presumably in fee simple) of land on which to carry on the specifically prohibited farming activities, the other three statutes prohibit ownership or acquisition of any interest in agricultural land, whether legal, beneficial, or otherwise (*27*).[20]

[20] Under fee simple ownership an individual can own property for an indefinite period and has complete ability to dispose of it during lifetime or by will at death.

While the statutes are fairly simple and closely analogous, the exemptions contained in the statutes are numerous and, though in large measure identical, are to some extent highly individualized. Unlike the early North Dakota statute, the other States exempt land owned by corporations up to the effective date of the act (*28*). In addition, the Minnesota, Missouri, and South Dakota statutes exempt land leased by corporations prior to the effective dates of the statutes (*29*).[21]

All the statutes permit "normal expansion" of farm acreage held by corporations as of the effective date of enactment, at a rate not to exceed 20 percent of such acreage during any 5-year period, plus any additional acreage necessary to meet requirements of pollution control regulations (*30*). Thus, quite unlike the early North Dakota statute, which required farm corporations to divest all agricultural real estate interest within 10 years of the act's passage, these statutes protect the holdings of existing farm corporations and permit their expansion. Such provisions may enhance any present competitive advantage of existing corporations over the individual farmer. To that extent, the purpose of the statutes may be undercut by the exemption.

The statutes also exempt agricultural land held by corporations for nonfarm purposes. The Minnesota, Missouri, and South Dakota statutes limit such acreage as may be necessary in the operation of nonfarm business. Pending nonfarm use of the land by the corporation, the land may be leased for agricultural purposes to individuals, family farms, and authorized corporations (*31*). The Wisconsin statute permits unlimited corporate ownership of agricultural land for nonagricultural purposes, and allows corporations to lease such land to individuals, exempted corporations, and other types of business entities for farming (*32*).

Minnesota, Missouri, and South Dakota also exempt the family farm corporation from restrictions. The statutory definitions of the family farm vary, however. The Minnesota statute defines the family farm corporation as one that is founded for the purpose of farming and owning agricultural land, with the majority of stockholders being persons related within the third degree of kinship. The

[21] In Missouri, a bank or trust company acting in the administration of an investment trust or a management trust formed with the primary purpose of making or managing investments or income-producing property and purchasing agricultural real estate with trust funds with the primary benefits accruing to investors or shareholders in the trust is not exempt from the provisions of sections 350.010 to 350.030 that restrict corporate engagement in farming.

same persons must also own the majority of voting stock, and one of them must reside on or actively operate the farm. No stockholders may be corporations (*33*).

The Missouri and South Dakota statutes are similar, except that they do not specify that one of the family members must reside on or actively operate the farm; any stockholder may fulfill this requirement (*34*). Thus, a family farm in these States might actually have no resident or active family members.

In addition to family farms, Minnesota, Missouri, and South Dakota also exempt "authorized farm corporations." The Minnesota exemption applies to corporations with five or fewer stockholders, all of whom are natural persons or estates and hold the same class of stock, and a majority of whom reside on the farm or actively engage in farming. The corporation's passive income (rent, royalties, dividends, interest, and annuities) must not exceed 20 percent of its gross receipts (*35*).

The South Dakota provision is similar to Minnesota's, except that 10 stockholders are permitted, none of whom is required to reside on the farm or engage in farming (*36*). This would permit 10 unrelated nonfarmers to own a corporate farm business, in conjunction with nonfarm businesses, which could include food processing and marketing operations. The analogous Missouri provision contains no passive income provision, but requires that two-thirds of the exempted corporation's income be derived from farming. In Missouri, the only other criterion for the exemption is that all shareholders be natural persons, estates, or trusts (*37*); the number of shareholders is not limited.

North Dakota's Earlier Law

The North Dakota Corporate Farming Law (*4*), in effect from 1932-81, was probably the most restrictive State law regulating corporate ownership and operation of farms. Although the law is no longer in effect, the following description of it is included because of its historical significance as one of the earliest laws to restrict farm corporations as well as one of the most sweeping in its prohibitions. The law was enacted to protect individual farmers from corporate farm competition. The legislators may also have been influenced by the many foreclosures on farmland by corporate lenders and life insurance companies (*5*). As interpreted by the State Supreme Court, the origin and and purpose of the Corporate Farming Law were as follows:

> It is a matter of common knowledge that North Dakota is an agricultural state. Its principal industry is that of farming. It is also common knowledge that prior to the enactment of the Corporate Farming Law there were corporations in existence which were organized and operated for the purpose of engaging in the business of farming and agriculture. These corporations farmed huge tracts of land in this State in competition with individual farmers. It must be presumed that the people of the State, before enacting the Corporate Farming Law by initiated measure in 1932, and the legislators, when they amended the law in 1933, informed themselves and determined that to prohibit corporate farming as a business, except for qualified co-operatives, was necessary to protect the economy of the State and the welfare of its citizens...(*6*).

The law prohibited all corporations, foreign and domestic, from engaging in farming or agriculture.* The single exception to this prohibition was for "co-operative corporations, seventy-five percent of whose members or stockholders are actual farmers residing on farms or depending principally on farming for their livelihood" (*7*). However, a corporation could acquire, and farm for 10 years, rural land that was suitable for farming. After 10 years, however, the land had to be sold or otherwise disposed of, except for such land "reasonably necessary in the conduct of" the corporation's business (*8*).

Thus, a limitation on corporate ownership of rural real estate was imposed, in addition to

* N.D. Century Code Sec. 10-06-01 (1960). About 100 farm corporations were reported in North Dakota in the 1969 Census of Agriculture. The number decreased in 1974 to 73 but increased to 131 in 1978. Although individual census reports are not available for analysis, it appears that the corporations operated under the exceptions and exemptions discussed here.

The exemptions for authorized farm corporations in Missouri and South Dakota afford substantial leeway for fairly large and, to some extent, integrated corporations to engage in farming operations.

The Wisconsin statute contains an exemption that is a hybrid of the family farm and authorized farm exemptions discussed above. Any corporation with no more than two classes of stock and with 15 or fewer stockholders who are all natural persons or estates is exempted (*38*). Lineal ancestors and descendants, aunts, uncles, and first cousins may be grouped as one stockholder; but only one such grouping is allowed in a single corporation. Thus all 15 stockholders in an exempted corporation could be unrelated, and one stockholder could actually be many people. Furthermore, this statute does not require that any stockholder reside on the farm or actively engage in its operation. Thus an exempted corporation could consist of a fairly large number of nonfarmers who presumably could amass a sufficiently large amount of capital to operate a farm of substantial size.

While the original proposed family farm act in Wisconsin was patterned closely after that of the North Dakota statute prior to July 1, 1981 (*39*) the present statute is much more permissive than the former North Dakota act, and would appear to be less intended to preserve the traditonal family farm than to limit the size of farm corporations by limiting the number of stockholders. While the limitations may preclude huge conglomerates from engaging in agriculture, they would not seem to prevent the development of farming corporations bearing little resemblance to the traditional family farm.

the prohibition against corporate farming. None of the above provisions prohibited a corporation from acquiring title to farmland (*9*). However, title to land held in violation of these provisions escheated to the State, if a successful action was brought by the State's Attorney of the county where the land is situated (*10*).

The 10-year grace period afforded by the law and the exemption afforded to agricultural land "reasonably necessary" in the conduct of a corporation's business were the subject of litigation. In order for a corporation to take advantage of the 10-year holding period, the corporation must have conducted a business that was authorized by law. A corporation organized expressly to engage in farming did not qualify for the 10-year exemption. Nor could an agricultural corporation circumvent the general prohibition by asserting that its land was necessary for the conduct of its business. The "reasonably necessary" clause applied only to land held for nonagricultural business of a corporation (*11*).

A North Dakota corporation could not be chartered to conduct farming; and a foreign corporation, though chartered as a general business corporation in its State of incorporation, could not engage in agriculture in North Dakota (*12*). Furthermore, the State Supreme Court indicated that it would interpret the "reasonably necessary" exemption narrowly, so that ownership of rural real estate must have been necessary to the conduct of the business for which the corporation was chartered (*13*). One permissible use envisioned by the court was retention of land for a future plant site (*14*).

Apart from such clearly nonagricultural uses, however, the Corporate Farming Law imposed a formidable barrier to corporate ownership and operation of farms and farmland in North Dakota. The U.S. Supreme Court rejected challenges to the law under equal protection and due process and the State Supreme Court held that the law did not violate the North Dakota constitutional provision against special legislation (*15*).

The law was not riddled with the exceptions that characterize related statutes in other States. While the 10-year grace period and "reasonably necessary" exemptions may have created some confusion and possible loopholes (*16*), it appeared that only farmer cooperative corporations defined in the act could engage in farming as corporate organizations.

The four statutes have several lesser exemptions in common, including: land acquired by a corporation by process of law in the collection of debts, or held as security; farming operations and land owned by experimental and research farms, provided commercial sales are incidental to research or experimental work; and farms engaged in raising breeding stock for resale to farmers, or growing seed (*40*). In addition, the Minnesota, Missouri, and South Dakota statutes exempt gifts of agricultural land to nonprofit corporations (*41*).

Some exemptions in the statutes appear to be fashioned to particular interests within the State, and in some cases lessen the impact of the general prohibitory provisions of the statutes. For example, the South Dakota statute recites that it was enacted to combat the threat of "conglomerates in farming." Nevertheless, this statute exempts "agricultural lands acquired by a corporation solely for the purpose of feeding livestock" (*42*). This exemption, permitting vertical integration in the livestock industry, could freeze out the family farmer, who may be unable to compete with large corporations (*43*).

Similarly, the Missouri statute exempts agricultural land producing crops used exclusively for brewing, winemaking, or distilling. Such corporations thus need not buy their farm products from the family farmer. The statute also exempts the production of raw materials for manufacturing pharmaceuticals and processing chemicals, food additives, and related products. Production of poultry and poultry products, although included in the definition of farming in the Missouri act, is curiously exempted from coverage in a later section of the act (*44*).

The amended Minnesota statute, while containing fewer exemptions for particular products than the South Dakota and Missouri statutes, does exempt:

> Agricultural land, either leased or owned, totaling no more than 2,700 acres, acquired after May 20, 1973 for the purpose of replacing or expanding asparagus-growing operations, provided that such corporation had established 2,000 acres of asparagus production (*45*).

This exemption, limited to a particular product on a particular number of acres in the original statute, with the limitation expanded in the amendment, was undoubtedly tailored for a particular corporation or group of corporations. Thus, the Minnesota statute, defining more clearly the exempted family farms and authorized corporations and containing fewer seemingly illogical exemptions than the South Dakota and Missouri statutes, is not free from quirks.

The Wisconsin statute does not contain exemptions for particular products. It does, however, exempt farm production "incidental to the principal purpose" of a nonfarm corporation (*46*). It is difficult to assess the ramifications of this exemption. It appears to be broader than the other three States' exemption for ownership of agricultural land "reasonably necessary" in the conduct of nonfarming corporations" businesses. The Wisconsin provision allows nonfarm corporations to produce prohibited crops, whereas the other three statutes permit nonfarm corporations to hold farmland only for nonagricultural purposes (*47*.) Furthermore, "incidental" farming operations may be subject to conflicting interpretations. The provisions could conceivably allow large-scale farming by corporations whose primary purpose is nonagricultural, thereby allowing conglomerate involvement.

The Wisconsin statute imposes a $1,000 fine for each day of violation of the statute by a corporation. The State district attorneys are authorized to sue to enjoin probable violations and to request a court order requiring the corporation to divest itself of land held in violation of the statute (*48*). The other three States do not impose fines for violations.

All four States, however, authorize the State attorney general to seek a court order of divestiture of lands held in violation of the statute. Any land not divested within the prescribed time is to be sold at public auction. Furthermore, the time limitation for divestiture operates as a covenant in the title to the land against any corporate grantee, assignee, or successor in interest of the violator, (*49*) thus precluding permanent transfer of title to another corporation.

Although Wisconsin has no reporting requirements, Minnesota, Missouri, and South Dakota each require that corporations engaged in farming or proposing to engage in farming file annual reports with the State, disclosing their location, real estate owned, and the identities of their officers and boards of directors. A corporation seeking to qualify as a family farm or authorized corporation must disclose, in addition: the number of shares owned by persons residing on the farm or actively engaged in farming, or their relatives within the third degree of kinship; the name, address, and number of shares owned by each shareholder; and, for Minnesota and South Dakota, the percentages of gross receipts from nonagricultural sources (*50*).

Only Minnesota requires that the reports list the farm products which the corporation produces or intends to produce. With the numerous exemptions contained in the Missouri and South Dakota acts, this information would seem to be pertinent to any inquiry into corporate compliance with the statutes, and would increase the usefulness of the reports.

Under each statute, failure to file a report or filing of false information is a misdemeanor (*51*). South Dakota, in addition, requires newly formed farm corporations to receive official certification of compliance with the statute before commencing farm operations (*52*).

Minnesota, South Dakota, and Wisconsin amended their laws within the last few years to restrict investments in farmland by pension funds and investment trusts. In 1981, the Minnesota legislature enacted legislation prohibiting a "pension or investment fund" from engaging in farming or acquiring interest in real estate used for farming (*53*). A "pension or investment fund" is defined as "a pension or employee-welfare benefit fund, however organized, a mutual fund, a life insurance company separate account, a common trust fund of a bank or other trustee established for the investment and reinvestment of money contributed to it, a real estate investment trust, or an investment company as defined in 15 U.S.C. Section 80 a-3." The term "pension or investment fund" does not include a benevolent trust established by the owners of a family farm, authorized farm corporation, or family farm corporation.

Agricultural land or land capable of being used for farming by a pension or investment fund as of May 12, 1981, may continue to be held and expanded at a normal expansion rate in any 5-year period, not to exceed 20 percent of the amount of land owned or leased on May 12, 1981. Also permitted is additional ownership reasonably necessary to meet requirements of pollution control regulations (*54, 2, 3*).

In 1977, the South Dakota legislature added the provision that no national or State bank or trust company shall purchase agricultural lands in South Dakota through a pooled investment fund formed from assets from retirement, pension, profit sharing, stock bonds [sic] or other trusts (*55, 2, 3*).

The 1973 Wisconsin Corporate restrictions were amended by the legislature in 1977 to include trusts within the limitations for corporations. Land owned by a trust on May 27, 1978, was excluded (*56, 2, 3*).

Oklahoma[22]

In 1971, Oklahoma enacted legislation barring the chartering of domestic corporations, or the licensing of foreign corporations, for the purpose of engaging in farming or ranching, or for the purpose of owning or leasing any interest in land used for farming or ranching. Domestic family farm corporations are exempt. The shareholders of exempted corporations must be natural persons, estates, or trusts for the benefit of natural persons. The corporation must derive not more than 35 percent of annual gross receipts from sources other than farming or ranching or allowing others to extract minerals from corporate lands. In addition, the corporation may have no more than 10 shareholders who are not related as lineal descendants or by birth, marriage, or adoption (*57*). Such corporations must submit articles of incorporation to the State Board of Agriculture for approval before articles of incorporation are filed in the office of the Secretary of State.

Like several of the statutes previously discussed, the Oklahoma act limits the ownership, leasing, or holding of agricultural lands by a nonfarming corporation to what is "reasonably necessary to carry out its business purpose" (*58*).

In contrast with the Iowa statute, aimed primarily at preventing vertical integration in the livestock industry, the Oklahoma statute appears designed to protect such arrangements. The act expressly states that it does not apply: to corporations engaging in food canning operations, food processing or frozen food processing insofar as such corporations engage in the raising of food products for aforesaid purposes, (or) . . . where a corporation, either domestic or foreign, engages in research and/or feeding

[22] Unlike some other States with restrictions on farm corporations which are statutory and thus subject to amendment or repeal at any legislative session, Oklahoma restricted corporate ownership of rural real estate at the time of Statehood and enactment of its constitution. The most recent legislation, the 1971 Oklahoma Business Corporation Act, is covered in this section.

arrangements or operations concerned with the feeding of livestock or poultry . . . (*59*).

Vertically integrated corporations are thus free to continue and to expand their businesses. On the other hand, the act appears designed to freeze the expansion of other corporate farms, since it expressly exempts only property acquired by corporations on or before June 1, 1971 (*60*).

An unusual enforcement feature of the statute is that divestment proceedings may be brought against offending corporations by any resident of the county in which the corporate land is situated. If the action is successful, the statute expressly provides that the plaintiff be allowed a reasonable attorney's fee and the defendant corporation be assessed all costs. If the plaintiff loses, however, he is assessed all costs and the defendant's attorney's fee (*61*). While the statute authorizes the bringing of actions by those whom it is intended to protect, the potential liability for a defendant's court costs and attorney's fees may considerably dampen the ardor of those who might otherwise be eager to enforce the act. The statute contains no reporting requirements.

Kansas

The Kansas legislature substantially eased the limitations on incorporation of farm and ranch businesses in Kansas effective July 1981. Family farm corporations, authorized farm corporations, family trust, authorized trust, and testamentary trusts may directly or indirectly own, acquire, or

Kansas's Earlier Law

Unlike the statutes previously discussed, the Kansas statute in effect from 1931-81 did not prohibit corporate ownership of agricultural land (*62*). Rather it prohibited corporations from producing, directly or indirectly, specific products. The Kansas law was one of the earliest enacted and like North Dakota's survived for about 50 years. A description of it is included here for historical significance. The list of products differs somewhat from that of Wisconsin (*63*), primarily in that Kansas did not prohibit livestock production, except for "milking of cows for dairy purposes" (*64*).

The Kansas statute specifically prohibited "producing, planting, raising, harvesting or gathering" wheat, corn, grain sorghum, barley, oats, rye, or potatoes, and milking cows for dairy purposes (*65*). In barring corporate involvement in planting and harvesting, the statute was more restrictive than the Minnesota, Missouri, and South Dakota acts which exclude contracting for furnishing of harvesting, spraying, or other farm services from the definition of farming (*66*).

The Kansas statute differed from the Minnesota, Missouri, and South Dakota statutes in another important respect: it contained only two exemptions. The first was analogous to the "authorized farm corporation" exemption in the statutes of the three States. In Kansas, a corporation could have engaged in farming if it had no more than 10 stockholders, all of whom were individuals or fiduciaries for individuals and none of whom owned stock in another corporation authorized to produce any of the prohibited farm products. While incorporators must have been Kansas residents, stockholders need not have been. The size of such authorized corporate farms was limited to 5,000 acres, whether the land was owned, controlled, managed, or supervised by such a corporation (*67*).

The size limitation was unique among the authorized farm corporation exemptions of the States, and appeared to be an effective means of preventing large-scale corporate competition against individual, smaller farmers. However, the limitation was without regard to soil quality and capacity; a 5,000-acre intensive row crop farm could provide substantial competition for small farmers, while 5,000 acres of soil suited only for pasture may have been too small to exhaust all possible operating and managerial economies in cattle or sheep ranching.

otherwise obtain or lease agricultural land in Kansas. However, corporations, trusts, limited corporate partnerships (a limited partnership which has a corporation as a general or limited partner), and corporate partnerships (a partnership which has a corporation as a general partner) may not, directly or indirectly own, acquire, or otherwise obtain or lease any agricultural land in Kansas if they had not done so by July 1, 1981. The permitted corporations and trusts thus depend on the definition of each (*73*).

A family farm corporation is defined as a corporation founded for the purpose of farming and the ownership of agricultural land. The majority of the voting stock is held by, and the majority of shareholders are, persons related to each other and all have a common ancestor within the third degree of relationship, by blood or by adoption, or the spouses or the stepchildren of such persons, or persons acting in a fiduciary capacity for those so related. It is further defined as a corporation where all the shareholders are natural persons or persons acting in a fiduciary capacity for the benefit of persons and a corporation where at least one of the shareholders resides on the farm or is actively engaged in the labor or management of the farming operation. A shareholder who is an officer of a family farm corporation and is one of the related shareholders holding a majority of the voting stock is considered to be actively engaged in the management of the corporation. If only one shareholder is meeting the active management requirement and that shareholder dies, the active manage-

The provisions barring a stockholder of one authorized farm corporation from owning stock in another such corporation afforded added assurance that corporations could not engage in large-scale farming. However, since the exemption did not require that any stockholders be related to each other or actively engaged in farming, it permitted corporate farms to be run by unrelated nonfarmers, who, in addition, need not have been State residents.

The only other exemption in the Kansas statute was for coal mining corporations, which were authorized to farm their own land which had been strip mined for coal (*68*).

While the Kansas statute was thus not as broad in its prohibitory sweep as some other statutes, since it did not prevent corporate ownership of land usuable for farming and prohibited corporate production of only certain enumerated products, it appeared to be stronger than most other statutes because it contained fewer exemptions. There was no grandfather clause protecting farm corporations in existence prior to enactment of the statute.*

The exemption for authorized corporations appeared better calculated to keep corporate operations small. Furthermore, since the State constitution defines corporations to include "all associations and joint stock companies having powers and privileges not possessed by individuals or partnerships" (*69*), the statute probably could not have been circumvented by organizing a farm business as a Massachusetts or business trust—a corporate-like business not requiring a State charter (*70*).

Kansas required that all corporations that owned or leased 10 or more acres of land used or useable for farming had to file annual reports with the secretary of state (*71*). Such reports were required to state, in addition to information required of all domestic corporations, the acreage and location of land used or useable for farming which it owned or leased, the purposes for which such land was owned or leased, the value of its agricultural and nonagricultural assets, and the number of its stockholders (*72*).

* As early as 1931, Kansas prohibited the chartering of domestic corporations, or the granting of permission to foreign corporations, to engage in the same corporate farm production now prohibited by Kan. Stat. Ann 17-5901 (1974). L. 1931, Ch. 153, 1; Gen. Stat. Kan. (Ann.). 17-202a (1949).

ment requirement does not apply for the period of estate settlement under Kansas law.

An authorized farm corporation is a Kansas corporation other than a family farm corporation founded for the purpose of farming and the ownership of agricultural land where all the incorporators are Kansas residents. Except where stock passes from a deceased shareholder, the shareholders may not exceed 15. The shareholders must all be natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or nonprofit corporations. In addition, at least 30 percent of the shareholders must be persons residing on the farm or be actively engaged in the day-to-day labor or management of the farming operation. If only one of the shareholders is meeting this requirement and that shareholder dies, the requirement is waived during the period of estate settlement. Also, all the beneficiaries must be natural persons, persons acting in a fiduciary capacity other than as trustee for a trust, or nonprofit corporations.

An authorized trust is a trust other than a family trust in which the beneficiaries do not exceed 15 except for trust interests passing by bequest, in which case all persons succeeding to the deceased's interest are counted as one beneficiary, and except for trust interests held by a husband and wife and their estates, all of which are considered to be one beneficiary. In addition, all the beneficiaries must be natural persons, or persons acting in a fiduciary capacity or nonprofit corporations and the gross income of the trust must not be exempt from State or Federal income taxes.

A testamentary trust is a trust created by devising or bequeathing property in trust in a will.

There are a number of additional exceptions for such entities as educational, religious, and charitable nonprofit corporations and for nonfarm businesses, feedlots, nurseries, coal-mining corporations, etc.

Violations of the 1981 Kansas law are punishable by a civil penalty of not more than $50,000 and violators must divest the land involved within 1 year after judgment is entered (*74, 2*).

Iowa

In 1975, Iowa enacted a Corporate or Partnership Farming Law, the principal impact of which is to prohibit vertical integration in the livestock industry. Processors of beef or pork products whose annual wholesale production is $10 million or more are prohibited from owning, controlling, or operating a feedlot in Iowa in which hogs or cattle are fed for slaughter. Violators may be fined up to $50,000 and enjoined from further violations (*75*).

The act defines feedlot to include areas used for raising crops or other vegetation upon which hogs or cattle fed for slaughter are allowed to feed. Processors include persons, firms, corporations (including nonprofit corporations and cooperatives), and limited partnerships that are engaged in beef or pork processing, or that have a 10-percent or greater interest in another such entity. Processors and limited partnerships, however, are permitted to contract for the purchase or feeding of hogs or cattle (*76*).

Nevertheless, the statute clearly requires separate ownership and control of livestock-feeding and meat-processing operations in Iowa. Any processor or limited partnership that owned, controlled, or operated a feedlot on the effective date of the act is required to dispose of it by July 1, 1985 (*77*).

The statute also prohibits acquiring (by purchase, lease, or otherwise) any additional agricultural land by corporations that own or lease agricultural land or engage in farming (*78*); the moratorium also applies to trusts other than family trusts, authorized trusts, and testamentary trusts (*79, 2*). A trust is defined as "a fiduciary relationship with respect to property, subjecting the person by whom the property is held to equitable duties to deal with the property for the benefit of another person, which arises as a result of a manifestation of an intention to create it." It includes a legal entity holding property as trustee, agent, escrow agent, attorney in fact, and in any similar capacity. However, it does not include persons acting as executors, administrators, personal representatives, guardians, conservators, or receivers, who are grouped separately as operating in a fiduciary capacity (*80*).

Exemptions from the moratorium are made for family farms and authorized farm corporations, which are roughly equivalent to the similarly named corporations exempted by Minnesota, Missouri, and South Dakota. The 1977 amendment also exempted family, authorized and testamentary trusts. These exempted trusts correspond closely to family and authorized corporations, except that the trusts are defined in terms of beneficiaries rather than in terms of stockholders. However, an authorized trust may not have income that is exempt from Iowa or Federal taxation. Also exempted are testamentary trusts, that is, trusts created by devising or bequeathing property in trust in a will (*81*).

In addition to providing for a $50,000 fine, injunctions, and divestiture, the statute imposes numerous reporting requirements. Corporations that own or lease farmland or feedlots, or contract to feed poultry or livestock or to grow agricultural products must file annual reports with the secretary of state (*82*). The information required is similar to that required by the Minnesota statute (*83*). Iowa also requires reports of: limited partnerships that own or lease agricultural land or engage in farming; fiduciaries or trustees acting on behalf of corporations, limited partnerships and nonresident alien beneficiaries identified in reports filed by the above-named fiduciaries of trustees; and processors of beef or pork. Failure to file a report, or the willful filing of false information is punishable by a fine of up to $1,000 (*84*).

The Iowa law appears to be most significant in its forceful separation of feedlot and meat-processing operations, and its unique recognition, at least in its reporting requirements, that limited partnerships are in large measure capable of the same undertakings as corporations, and thus ought to be subject to the same regulations. Limited partnerships, however, are not subject to the moratorium on new acquisitions of farmland (*85*).

A second significant feature of the Iowa statute is the explicit, detailed definition of the entities to which the statute applies: corporations are explicitly defined to include cooperatives; trusts are brought within the ambit of the statute, and are clearly defined to include certain fiduciaries and exclude others; and exempted entities are clearly defined.

While the moratorium provision was temporary, the statute's breadth of application and its definitional clarity are extraordinary when compared with most other State statutes.

Texas

Texas statutes limiting corporate ownership and operation of farms and farmland are very specific and affect only a limited part of Texas agriculture. One statute prohibits a corporation from doing business in the State if the purpose is to combine raising cattle and owning land for that purpose and also operating stockyards and slaughtering, refrigerating, canning, curing, or packing meat (*87*). Any combination of the two businesses is prohibited. The statute is apparently intended to separate open range cattle or yardage, and slaughtering, processing, and storing meat. However, the statute does not prohibit an incorporated packing or stockyard firm from owning and operating feedlots and from feeding cattle.

The other relevant Texas statute requires corporations to dispose of land not necessary to their business within 15 years from the date of its acquisition. A corporation may not have real estate holdings as one of its purposes, except a "town lot" corporation, operating in or near a city (*88*). This provision appears similar to provisions in farm legislation of other States and apparently is directed at passive investment in land.

Nebraska

In 1975, Nebraska enacted annual reporting requirements applicable to corporations that hold fee title, leasehold interests, or any intermediate forms of interest in agricultural land in the State (*89*). The information required is similar to that required in reporting statutes of other States. This statute imposes no restrictions on corporate ownership or operation of farms.

Another provision bars corporations not organized in the State and trusts from owning or leasing land in the State for more than 5 years, subject to certain exceptions which do not include use of land for farming or ranching (*90*).

The 1981 legislature added restrictions on trusts; "no trust restricted shall either directly or indirectly acquire or otherwise obtain or lease any agricultural land in the State" (*91*). A number of exceptions were made such as for trusts that existed prior to the effective date of the act, for bona fide encumbrance taken for security, and for family and authorized testamentary and family trusts (*2*).

West Virginia

In West Virginia, in order for a corporation to hold more than 10,000 acres of land, it must obtain a certificate from the secretary of state, authorizing all landholdings above 10,000 acres. Certificates are issued on payment of a tax of 5 cents per acre on all excess acreage (*93*).

South Carolina

In 1975, the South Carolina legislature passed Act 208 dealing with prime farmland preservation. As a result of regulations from the act that went into effect in 1982, certain corporations that own or lease agricultural real property and actually use it for agricultural purposes are subject to a higher property tax assessment in South Carolina. Six percent of the fair market value is assessed against corporations that meet any of the following criteria: 1) more than 10 shareholders, 2) a stockholder who is not an individual, 3) a nonresident alien stockholder, or 4) more than one class of stock.

The assessment rate is 4 percent of market value for owners or lessees who are individuals, partnerships, and corporations that do not meet any one of the four criteria (*94, 3*).

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8. Ibid. Sec. 10-06-02, 10-06-03.

9. Ibid. Sec. 10-06-05; see also *Loy* v. *Kessler,* 76 N.D. 738, 39 N.W. 2d 260 (1949).

10. Ibid. Sec. 10-06-06 (1960); see also *Loy* v. *Kessler,* 260, 272.

11. *Coal Harbor Stock Farm, Inc.* v. *Meier,* 191 N.W. 2d 583, 588 590-592 (N.D. 1971).

12. Ibid. at 592.

13. *Asbury Hospital* v. *Cass County,* 72 N.D. 359, 7 N.W. 2d 438, 449 (1943), aff'd., 326 U.S. 207 (1945).

14. *Asbury Hospital; Coal Harbor,* at 592.

15. *Asbury Hospital; Coal Harbor,* at 589-592.

16. Two unreported lower state court decisions, *Baldwin Corp.* v. *Dickey County,* (D. Ct. of Dickey Co., N.D., Oct. 26, 1942), and *Northwestern Improvement Co.* v. *Morton County* (D. Ct. of Morton Co., N.D., Feb. 24, 1942), as cited in McElroy, op. cit., held that the Corporate Farming Law does not apply to corporations chartered to engage in real estate transactions, because owning land was "reasonably necessary" in their business. These decisions were not appealed.

17. S.B. 2233, Acts of 47th North Dakota Legislative Assembly, 1981.

18. N.D. Cent. Code Sec. 10-06-01.1, added by S.B. 2233.

19. N.D. Cent. Code Sec. 10-19-02(1).

20. N.D. Cent. Code Sec. 10-06-13, added by S.B. 2233. Sec. 10.

21. Ibid.

22. Ch. 324, Minn. Stat. 1975, amending Minn. Stat. Ann. 500.24 (Supp. 1974); Mo. Acts. No. 114 (1975) (Vernon's Mo. Leg. Serv. 260-262, 1974, No. 2); S.D. Compiled Laws Ann. Ch. 47- 9A (Supp. 1974); Wis. Stat. Ann. 182.001 (Supp. 1975-76).

23. S.D. Compiled Laws Ann. 47-9A-1 (Supp. 1974).

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25. Minn. Stat. Ann. 500-24(1) (a) (1975); Mo. Acts No. 114, 1(1), 2(5) (1975); S.D. Compiled Laws Ann. 47-9A-2(2) (Supp. 1974).

26. Wis. Stat. Ann. 182.001(3) (Supp. 1975-76).

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31. Minn. Stat. Ann. 500.24(2) (h) (1975); Mo. Acts No. 114, 2 (8) (1975); S.D. Compiled Laws 47-9A-12 (Supp. 1974).

32. Wis. Stat. Ann. 182.001(2) (e) (Supp. 1975-76).

33. Minn. Stat. Ann. 500.24 (1) (c) (1975).

34. Mo. Acts No. 114, 1(3) (1975); S.D. Compiled Laws 47-9A-14 (Supp. 1974).

35. Minn. Stat. Ann. 500.24(1) (d) (1975).

36. S.D. Compiled Laws 47-9A-15 (Supp. 1974).

37. Mo. Acts No. 114, 1 (4) (1975).

38. Wis. Stat. Ann. 182.001 (1) (Supp. 1975-76).

39. Wis. Assembly Bill 244 (1969).

40. Minn. Stat. Ann. 500.24 (2) (a), (d), (e), (i) (1975); Mo. Acts No. 114, 2(1), (4), (5), (9) (1975); S.D. Compiled Laws 47-9A-6, 7, 9, 10 (Supp. 1975); Wis. Stat. Ann. 182.001 (2) (a), (d) (Supp. 1975-76). Each statute requires that the corporation dispose of such land within 10 years (5 years in Wisconsin). All but Wisconsin permit the corporation to lease the land for farming to individuals, family farm corporations, and authorized farm corporations, but otherwise forbid use of land for farming.

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47. *Coal Harbor,* supra N. 15 interprets a similar provision in the North Dakota statute.

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60. Ibid. Sec. 952(D).

61. Ibid. Sec. 953 (B).

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Appendix table 1—Minimum Federal income tax liability for a corporation and its owner-manager, by income, 1984[1]

Income[2]	Individual owner-manager: Income[3 4]	Individual owner-manager: Taxable income[5]	Individual owner-manager: Marginal tax bracket	Individual owner-manager: Total tax	Corporation: Taxable income[6]	Corporation: Marginal tax bracket	Corporation: Total tax	Total individual and corporation tax	Tax as a percent of total income
Dollars	*Dollars*	*Dollars*	*Percent*	*Dollars*	*Dollars*	*Percent*	*Dollars*	*Dollars*	*Percent*
4,000	0	0	0		0	0	0	0	0
8,000	8,000	600	11	66	0	0	0	66	.8
12,000	12,000	8,000	14	539	0	0	0	539	4.5
16,000	15,900	11,900	14	1,085	100	15	15	1,100	6.9
20,000	15,900	11,900	14	1,085	4,100	15	615	1,700	8.5
25,000	15,900	11,900	14	1,085	9,100	15	1,365	2,450	9.8
30,000	15,900	11,900	14	1,085	14,100	15	2,115	3,200	10.7
35,000	15,900	11,900	14	1,085	19,100	15	2,865	3,950	11.3
40,000	15,900	11,900	14	1,085	24,100	15	3,615	4,700	11.8
45,000	20,000	16,000	16	1,741	25,000	15	3,750	5,491	12.2
50,000	24,200	20,200	18	2,497	25,800	18	3,894	6,391	12.8
55,000	24,200	20,200	18	2,497	30,800	18	4,794	7,291	13.3
60,000	24,200	20,200	18	2,497	35,800	18	5,694	8,191	13.5
65,000	24,200	20,200	18	2,497	40,800	18	6,594	9,091	14.0
70,000	24,200	20,200	18	2,497	45,800	18	7,494	9,991	14.3
75,000	25,000	21,000	22	2,673	50,000	18	8,250	10,923	14.6
80,000	30,000	26,000	25	3,815	50,000	18	8,250	12,065	15.1
85,000	35,000	31,000	28	5,098	50,000	18	8,250	13,348	15.7
90,000	39,200	35,200	28	6,274	50,800	30	8,490	14,764	16.4
95,000	39,200	35,200	28	6,274	55,800	30	9,990	16,264	17.1
100,000	39,200	35,200	28	6,274	60,800	30	11,490	17,764	17.8
105,000	39,200	35,200	28	6,274	65,800	30	12,990	19,264	18.4
110,000	39,200	35,200	28	6,274	70,800	30	14,490	20,764	18.9
115,000	40,000	36,000	33	6,538	75,000	30	15,750	22,288	19.4
120,000	45,000	41,000	33	8,188	75,000	30	15,750	23,938	19.9
125,000	50,000	46,000	38	9,848	75,000	30	15,750	25,598	20.5
130,000	55,000	51,000	38	11,748	75,000	30	15,750	27,498	21.2
135,000	60,000	56,000	38	13,648	75,000	30	15,750	29,398	21.8
140,000	64,000	60,000	38	15,168	76,000	40	16,150	31,318	22.4
145,000	64,000	60,000	38	15,168	81,000	40	18,150	33,318	23.0
150,000	64,000	60,000	38	15,168	86,000	40	20,150	35,318	23.6
155,000	64,000	60,000	38	15,168	91,000	40	22,150	37,318	24.1
160,000	64,000	60,000	38	15,168	96,000	40	24,150	39,318	24.6
165,000	65,000	61,000	42	15,588	100,000	40	25,750	41,338	25.1
170,000	70,000	66,000	42	17,688	100,000	40	25,750	43,438	25.6
175,000	75,000	71,000	42	19,788	100,000	40	25,750	45,538	26.0
180,000	80,000	76,000	42	21,888	100,000	40	25,750	47,638	26.5
185,000	85,000	81,000	42	23,888	100,000	40	25,750	49,738	26.9
190,000	90,000	86,000	45	26,100	100,000	40	25,750	51,850	27.3
195,000	95,000	91,000	45	28,350	100,000	40	25,750	54,100	27.7
200,000	100,000	96,000	45	30,600	100,000	40	25,750	56,350	28.2
205,000	105,000	101,000	45	32,850	100,000	40	25,750	58,600	28.6
210,000	110,000	106,000	45	35,100	100,000	40	25,750	60,850	29.0
215,000[7]	113,400	109,400	45	36,630	101,600	46	26,486	63,116	29.4
220,000	113,400	109,400	45	36,630	106,600	46	28,786	65,416	29.7
225,000	113,400	109,400	45	36,630	111,600	46	31,086	67,716	30.1

[1] Total income is allocated between the individual owner-manager and the corporations so as to minimize the total tax bill. The principle used in this allocation was to equate the marginal tax brackets between the taxpaying entities. Since differences in bracket structure between the corporate and personal tax rate made it impossible to equate the brackets exactly, the procedure used was to maximize the amount of income allocated to the taxpaying entity with the lower bracket. For example, at the $75,000 income level, $50,000 of income is allocated to the corporations and taxed at the 18-percent marginal bracket and the remaining $25,000 is allocated to the owner-manager and taxed at the 22-percent marginal bracket. If an additional dollar of income had been allocated from the owner-manager to the corporation, it would have been taxed at 30 percent (the corporate tax rate increases from 18 to 30 percent for income above $50,000), this increasing the marginal tax rate by 36 percent. In practice, the allocation between the corporation and individual owner-manager can be accomplished by appropriate setting of salaries, directors' fees, and other forms of compensation. IRS regulations require that such compensation be "reasonable" and based on services rendered.

[2] The amount of income reported for tax purposes prior to deductions and exemptions.

[3] Income reported and taxed at individual income tax rates.

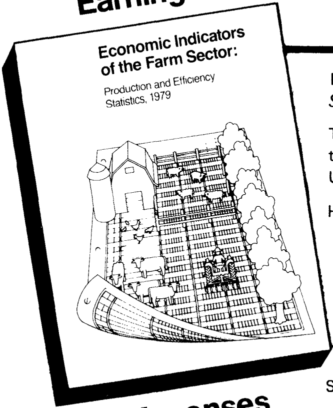
[4] The amount of income allocated to the owner-manager in relation to the total available for allocation may appear low; however, the owner-manager may not need or want more income that would be taxed at a higher rate, particularly where some otherwise personal expense items are paid for by the corporation and are not considered as taxable income to the owner-manager but are deductible corporate expenses.

[5] The 1984 personal exemption for husband and wife and each child is $1,000; thus $4,000 was subtracted from total income. The standard deduction of $3,400 for married taxpayers filing joint returns is reflected as the zero bracket amount in the IRS table.

[6] Income reported and taxed at corporate income tax rates.

[7] All income above $213,400 would be kept in the corporation and taxed at the 46 percent rate rather than paid to the sole proprietor and taxed at 49 and 50 percent.

Earnings



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