

## Farm Service Agency, USDA

## § 795.8

### § 795.6 Multiple individuals or other entities.

The rules in §§ 795.5 through 795.16 shall be used to determine whether certain multiple individuals or legal entities are to be treated as one person or as separate persons for the purpose of applying the limitation. In cases in which more than one rule would appear to be applicable, the rule which is most restrictive on the number of persons shall apply.

### § 795.7 Entities or joint operations not considered as a person.

A partnership, joint venture, tenants-in-common, or joint tenants shall not be considered as a person but, notwithstanding the provisions of § 795.3, each individual or other legal entity who shares in the proceeds derived from farming by such joint operations shall be considered a separate person, except as otherwise provided in this part, and shall be listed as a producer for payment purposes on program documents. The payment shares listed on the program documents for each individual or other legal entity shall be the same as each individual or other legal entity shares in the proceeds derived from farming by such joint operation. Notwithstanding the foregoing, each individual or other legal entity who shares in the proceeds derived from farming by such joint operation shall not be considered as a separate person unless the individual or other legal entity is actively engaged in the farming operations of the partnership or other joint operation. An individual or other legal entity shall be considered as actively engaged in the farming operation only if its contribution to the joint operation is commensurate with its share in the proceeds derived from farming by such joint operation. Members of the partnership or joint venture must furnish satisfactory evidence that their contributions of land, labor, management, equipment, or capital to the joint operation are commensurate with their claimed shares of the proceeds. A capital contribution may be a direct out-of-pocket input of a specified sum or an amount borrowed by the individual. If the contribution consists substantially of capital, such capital must have been contributed directly to the

joint operation by the individual or other legal entity and not acquired as a result of (a) a loan made to the joint operation, (b) a loan which was made to such individual or other legal entity by the joint operation or any of its members or related entities, or (c) a loan made to such individual or other legal entity which was guaranteed by the joint operation or any of its members or related entities.

### § 795.8 Corporations and stockholders.

(a) A corporation (including a limited partnership) shall be considered as one person, and an individual stockholder of the corporation may be considered as a separate person to the extent that such stockholder is engaged in the production of the crop as a separate producer and otherwise meets the requirements of § 795.3, except that a corporation in which more than 50 percent of the stock is owned by an individual (including the stock owned by the individual's spouse, minor children, and trusts for the benefit of such minor children), or by a legal entity, shall not be considered as a separate person from such individual or legal entity.

(b) Where the same two or more individuals or other legal entities own more than 50 percent of the stock in each of two or more corporations, all such corporations shall be considered as one person.

(c) The percentage share of the value of the stock owned by an individual or other legal entity shall be determined as of March 1 of the crop year, except that where a stockholder voluntarily acquires stock after March 1 and before the harvest of the crop, the amount of any stock so acquired shall be included in determining the percentage share of the value of the stock owned by the stockholder. Where there is only one class of stock, a stockholder's percentage share of the value of the outstanding stock shall be equal to the percentage of the outstanding stock owned by the stockholder. If the corporation has more than one class of stock the percentage share of the value of the stock owned by a stockholder shall be determined by the Deputy Administrator on the basis of market quotations, and if market quotations

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are lacking or too scarce to be recognized the percentage share of the value of the stock shall be determined by the Deputy Administrator on the basis of all relevant factors affecting the fair market value, including the rights and privileges of the various stock issues.

(Title I, Agricultural Act of 1970, as amended by the Agriculture and Consumer Protection Act of 1973, Pub. L. 93-86, 87 Stat. 221 (7 U.S.C. 1307) and under Title I, Rice Production Act of 1975, Pub. L. 94-214, 90 Stat. 181 (7 U.S.C. 428c note), and Pub. L. 95-156, 91 Stat. 1264 (7 U.S.C. 1307 note, 7 U.S.C. 1307, 7 U.S.C. 1441))

[43 FR 9784, Mar. 10, 1978, as amended at 45 FR 10311, Feb. 15, 1980; 45 FR 11795, Feb. 22, 1980]

### § 795.9 Estate or trust.

(a) An estate or irrevocable trust shall be considered as one person except that, where two or more estates or irrevocable trusts have common beneficiaries or heirs (including spouses and minor children) with more than a 50-percent interest, all such estates or irrevocable trusts shall be considered as one person.

(b) An individual heir of an estate or beneficiary of a trust may be considered as a separate person to the extent that such heir or beneficiary is engaged in the production of crops as a separate producer and otherwise meets the requirements of § 795.3, except that an estate or irrevocable trust which has a sole heir or beneficiary shall not be considered as a separate person from such heir or beneficiary.

(c) Where an irrevocable trust or an estate is a producer on a farm and one or more of the beneficiaries or heirs of such trust or estate are minor children, the minor children's pro rata share of the program payments to the trust or estate shall be attributed to the parent of the minor children except as otherwise provided in § 795.12.

(d) A revocable trust shall not be considered as a separate person from the grantor.

### § 795.10 Club, society, fraternal or religious organization.

Each individual club, society, fraternal or religious organization may be considered as a separate person to the extent that each such club, society,

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fraternal or religious organization is engaged in the production of crops as a separate producer and otherwise meets the requirements of § 795.3.

### § 795.11 Husband and wife.

With respect to the 1988 crop year, a husband and wife shall be considered to be one person except that such individuals who, prior to their marriage, were separately engaged in unrelated farming operations will be determined to be separate persons with respect to such farming operations so long as the operations remain separate and distinct from any farming operation conducted by the other spouse if such individuals have executed a Contract to Participate in the 1988 Price Support and Production Adjustment Programs by April 15, 1988. Such individuals must file a form FSA-561 with the county committee for each such farming operation by July 8, 1988, if they desire to be considered as separate persons under this section.

[53 FR 21410, June 8, 1988]

### § 795.12 Minor children.

(a) A minor child and his parents or guardian (or other person responsible for him) shall be considered as one person, except that the minor child may be considered as a separate person if such minor child is a producer on a farm in which the parents or guardian or other person responsible for him (including any entity in which the parents or guardian or other person responsible for him has a substantial interest, i.e., more than a 20-percent interest) takes no part in the operation of the farm (including any activities as a custom farmer) and owns no interest in the farm or allotment or in any portion of the production on the farm, and if such minor child:

(1) Is represented by a court-appointed guardian who is required by law to make a separate accounting for the minor and ownership of the farm is vested in the minor, or

(2) Has established and maintains a different household from his parents or guardian and personally carries out the actual farming operations on the farm for which there is a separate accounting, or