Exemptions for Transferring a Family Farm

Property Transfer Tax Act

Latest Revision: The revision bar ( | ) identifies changes to the previous version of this bulletin dated May 2015. For a summary of the changes, see Latest Revision at the end of this document.

This bulletin explains the requirements for claiming an exemption from the property transfer tax (PTT) when transferring a family farm.

For information on the requirements for claiming an exemption from PTT when transferring to and from a family farm corporation, see Bulletin PTT 009, Exemptions for Transfers to and from a Family Farm Corporation.

Table of Contents

Definitions ................................................................. 1
Transfers ................................................................. 2
How Do I Claim the Exemption? ............................... 4

Definitions

Family Farm
A family farm is farm land that is used, owned and farmed by any of the following:
- An individual
- A family member
- A family farm corporation

Note: This definition does not apply to farm land transferred through an estate or a trust under a will, or a living trust. For more information on these transfers, see Transfers Through Estates or Trusts Under Wills, and Transfers Through a Living Trust below.
The land must meet specific requirements under the *Assessment Act,* and must be classified as farm land by *BC Assessment.*

**Family Member**
A family member includes:
- Your child, grandchild, great-grandchild and their spouse
- Your parent, grandparent and great-grandparent
- Your brother, sister, cousin, niece, nephew, aunt, uncle and their spouse
- Your spouse as well as their child, parent, grandparent, great-grandparent, brother, sister, cousin, niece, nephew, aunt and uncle

**Related Individual**
A related individual includes:
- Your child, grandchild, great-grandchild and their spouse
- Your parent, grandparent and great-grandparent
- Your spouse and their child, parent, grandparent and great-grandparent

**Note:** Although the people on this list are also family members, only certain family members are related individuals. A child includes a stepchild and a stepchild is a related individual.

**Spouse**
A person can be your spouse by marriage, or by a common-law relationship by living together with you for at least two years in a marriage-like relationship.

**Transfers**
You can transfer family farms exempt of tax in the following ways:
- Directly to an eligible person (no trustee)
- Through an estate or trust under a will
- Through a living trust

If a transfer is through a trustee, the trustee must be registered as a trustee on the title to the property.

You can transfer the family farm exempt of tax only if you meet both of the following conditions:
- The farm meets the definition of a family farm
- The farm is transferred to eligible people
Eligible people must be Canadian citizens or permanent residents as defined in the Immigration and Refugee Protection Act (Canada).

Depending on the way the farm is transferred, additional conditions may need to be met as well.

**Direct Transfers**
You can transfer your family farm exempt of tax directly to a related individual, to your sibling or a spouse of your sibling.

For example, Mary is the registered owner of farm land that is farmed by her son and her nephew. Mary, her son and her nephew are all family members. Mary and her son are related individuals, while Mary and her nephew are not related individuals. Mary can transfer the farm to her son exempt of tax because they are related individuals and the farm is being used, owned and farmed by family members.

If Mary transfers the farm land to her nephew, the transfer is taxable because even though the farm is being used, owned and farmed by family members, Mary and her nephew are not related individuals.

If Mary transfers the farm to her son and nephew jointly, only the portion of the transaction to her son is eligible for the exemption.

**Transfers Through Estates or Trusts under Wills**
These types of transfers occur after the person who owns the family farm dies.

The executor of the estate, or a trustee of a registered trust established under the will, can transfer the title of a family farm exempt of tax if you meet both of these additional conditions:

- The farm land being transferred was the deceased’s family farm and immediately before death, the land was owned by the deceased and was used and farmed by the deceased, a family member of the deceased or a family farm corporation that, at the time of death, was comprised of shareholders each of whom was a related individual of the deceased, a sibling of the deceased, or a spouse of a sibling of the deceased

- The family farm is transferred to a beneficiary of the deceased’s estate or trust who, at the time of death, was a related individual of the deceased, a sibling of the deceased, or a spouse of a sibling of the deceased
Transfers Through a Living Trust
These types of transfers occur when the settlor of the trust is still alive.

A settlor is a person who gives land, or the assets used to acquire the land, to the trust estate.

If you are a settlor, a trustee of the registered trust can transfer the family farm exempt of tax during your lifetime if you meet all of these additional conditions:

- The farm land is your family farm and was used, owned and farmed by you before setting up the trust
- The person receiving the family farm is a beneficiary of the trust
- The person receiving the family farm is a related individual to you, is your sibling or a spouse of your sibling

Transfers of Partial Interests (Net Interest Passing)
If registered title to a property is held in joint tenancy, and one of the owners transfers their interest to the other or to a third party, the ministry determines eligibility for exemption from tax based only on the partial interest being transferred (i.e. the net interest passing).

For example, A and B own a property as joint tenants and wish to transfer B’s interest to C, so that A and C will own the property as joint tenants.

A & B (joint tenants) to A & C (joint tenants)

A’s interest in the property does not change as a result of the transfer. Therefore, the ministry determines whether C is exempt from paying tax based on the transfer of the net interest (50%) in the property passing from B to C. This means that C pays tax on 50% of the fair market value of the property, unless C qualifies for an exemption.

How Do I Claim the Exemption?

To claim the exemptions described in this bulletin, select or enter exemption code 07 on the property transfer tax return.
Need more info?

Online:  [gov.bc.ca/propertytransfertax](http://gov.bc.ca/propertytransfertax)
Email:  pttenq@gov.bc.ca

Telephone:  250 387-0555 (Victoria)
Toll-free:  1 888 355-2700

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The information in this bulletin is for your convenience and guidance and is not a replacement for the legislation.

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**Latest Revision**

November 2017
- Removed references to the previous paper property transfer tax returns
- Other minor revisions

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References:  *Property Transfer Tax Act,* Sections 14(1), 14(3)(a), 14(3)(c.2) and 14(3)(d.2).