

## Exemptions for Transfers to and from a Family Farm Corporation

### *Property Transfer Tax Act*

Latest Revision: The revision bar ( | ) identifies changes to the previous version of this bulletin dated August 2013. 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 property transfer tax (PTT) when transferring a family farm to and from a family farm corporation.

For information on claiming an exemption from PTT when transferring a family farm, see [Bulletin PTT 008](#), *Exemptions for Transferring a Family Farm*.

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## Definitions

### Family Farm

A family farm is farm land that is used, owned and farmed by any one of the following:

- an individual,
- a family member, or
- a family farm corporation.

**Please 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 Farm Corporation**

A family farm corporation is a corporation of which the principal activity is farming the farm land, and no shareholder is a corporation.

## **Family Member**

Family members are any of the people on the following list:

- 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, and
- your spouse as well as their child, parent, grandparent, great-grandparent, brother, sister, cousin, niece, nephew, aunt and uncle.

## **Related Individual**

Related individuals are only the people on the following list:

- your child, grandchild, great-grandchild and their spouse,
- your parent, grandparent and great-grandparent, and
- your spouse and their child, parent, grandparent and great-grandparent.

**Please note:** Although the people on this list are also family members, only certain family members are related individuals. 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**

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You can transfer family farms exempt of tax in the following ways:

- directly to and from family farm corporations,
- through an estate or trust under a will, or
- 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 farm exempt of tax only if both the following conditions are met:

- the farm and the family farm corporation meet the definition of a family farm and a family farm corporation, and
- the transfer involves eligible people and corporations.

Eligible people must be Canadian citizens or permanent residents as defined by 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 to a Family Farm Corporation**

You can transfer a family farm exempt of tax directly to a family farm corporation if either of these additional conditions are met:

- the individual transferring the family farm is the sole shareholder of the family farm corporation, or
- the individual transferring the family farm to the family farm corporation is a related individual, a sibling or spouse of a sibling to each of the shareholders.

For example, Mary and her spouse own a family farm and transfer their farm to a family farm corporation where Mary, her spouse and their grandson are the shareholders. This transfer is exempt from the tax because the shareholders are all related individuals, siblings or a spouse of a sibling to Mary and her spouse.

However, if Mary's nephew is also a shareholder, the transfer is no longer exempt because the nephew is not a related individual, sibling or spouse of a sibling to Mary and her spouse.

### **Direct Transfers from a Family Farm Corporation**

You can transfer a family farm exempt of tax from a family farm corporation if one of these additional conditions are met:

- the individual taking title to the family farm is the sole shareholder of the family farm corporation, or
- the individual taking title to the family farm is a related individual, a sibling, a sibling of a spouse or spouse of a sibling of each of the shareholders of the family farm corporation.

### **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 to a family farm corporation if both of these additional conditions are met:

- 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, and
- the family farm is transferred to a family farm corporation the shareholders of which, at the time of death, were 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 an individual who gives land, or the assets used to acquire the land, to the trust estate.

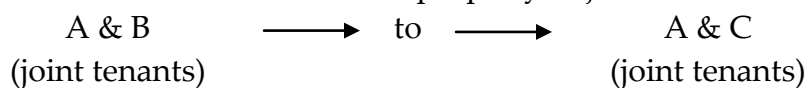
If you are a settlor, a trustee of the registered trust can transfer the family farm to a family farm corporation exempt of tax during your lifetime if all of these additional conditions are met:

- the farm land is your family farm and was used, owned and farmed by you before setting up the trust, and
- every other shareholder, if any, of the family farm corporation 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'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?**

You apply for the exemption by submitting a *Special Property Transfer Tax Return* form (**FIN 579S**) and other required land title documents when you register the title change at the land title office. Generally, a lawyer or notary public registers the title change and applies for the exemption on your behalf. The land title office then sends your application to the ministry to verify your eligibility.

Most law firms and notaries have supplies of the tax return, or you can obtain one from any land title office or **Service BC Centre**. You can also order the tax return by contacting the ministry at **PTTENQ@gov.bc.ca**

The property transfer tax calculation is done in Section F of the form, and you claim the exemption by filling in the exemption code 18 on line 2.

A sample return and an instruction guide to help you complete the return are available on our website at **gov.bc.ca/propertytransfertax**

## **Need more info?**

Online: [gov.bc.ca/propertytransfertext](http://gov.bc.ca/propertytransfertext)

Email: [pttenq@gov.bc.ca](mailto:pttenq@gov.bc.ca)

Telephone: 250 387-0604 (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**

May 2015

- clarified that child includes a stepchild
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References: *Property Transfer Tax Act*, Sections 14(1), 14(3)(c.1), 14(3)(f) and 14(3)(g).