

Exemption for Family Farm Corporations

Corporation Capital Tax Act

The exemption for family farm corporations is applicable for corporate **taxation years ending after March 31, 1994** and relates to the entire taxation year of the corporation, (i.e., there is no straddle provision phasing in the exemption).

The information in this bulletin is provided for your convenience and guidance and is not a replacement for the legislation. The *Corporation Capital Tax Act* and Regulations can be found on the web at www.gov.bc.ca/sbr

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LEGISLATIVE REQUIREMENTS

To obtain exempt status for Corporation Capital Tax (CCT) purposes, the family farm corporation must meet all the criteria outlined in the legislation. Subsection 1(1) of the [Corporation Capital Tax Act](#) defines the following items:

Family Farm Corporation

means a corporation

- 75% of the revenue of which is, in its taxation year, earned from farming in British Columbia;
- that is registered or licensed to carry on business in British Columbia; and,
- of which the beneficial owners of at least 80% in number of the issued shares of each class of shares of the corporation that have attached to them the right to vote in the election of directors are individuals who are
 - i. resident in British Columbia;
 - ii. related* to each other within the meaning of the regulations; and,
 - iii. actively engaged in farming or who are

the parents, children or spouse of a person who is actively engaged in farming.

* The term "related" is prescribed in the Regulations.

Farming

means one or more of the following:

- tillage of the soil;
- growing of cereals, vegetables, fruit, berries, nuts, grapes, mushrooms, hops, hay, clover, spices, herbs, nursery stock, seedlings and Christmas trees;
- raising or keeping livestock or poultry;
- the raising or keeping of fur-bearing animals, within the meaning of the Fur Farm Act, by a person licensed to do so under that Act;
- apiculture;
- dairy farming;
- floriculture, including the growing of edible flowers;
- production of seeds;
- raising or producing prescribed biological control agents;
- aquaculture;
- the raising or keeping of game, within the meaning of the Game Farm Act, by a person licensed to do so under that Act,

but does not include:

- operating a woodlot or harvesting trees for lumber, fibre or firewood;
- raising or keeping racehorses, operating a stable, dude ranch, stud farm or riding school;
- breeding pets or operating a kennel; or,
- an office or employment under a person engaged in the business of farming.

Livestock

means cattle, horses, sheep, goats, swine, mules, asses and includes other animals designated by regulation as livestock.

Poultry

means domestic fowl, guinea fowl, ostriches, quails and pheasants and includes other creatures designated by regulation as poultry.

ADMINISTRATIVE ISSUES

A. Holding Corporations

A strict interpretation of the legislation does not permit an exemption for multi-tiered corporate structures of farming operations. For example, in some situations, there may be a personal holding corporation interposed between the family farm corporation and the individual owners. Generally, the branch will "look-through" a personal holding corporation. However, the branch must review each case separately to determine if the corporation is exempt.

B. Procedure to Obtain Exempt Status

To obtain exempt status for CCT purposes, the family farm corporation must notify the branch in writing. The corporation should send a letter signed by an authorized officer of the company requesting confirmation that the corporation is no longer liable for tax pursuant to paragraph 4 (3)(j) of the Act.

The onus is on the corporate taxpayer to establish that it fits within the parameters of the exemption. As such, the following information must be enclosed with the letter to the branch:

- the taxpayer's name, account number, and taxation year end;
- the type of farming activity in which the taxpayer is involved;
- the amount of gross revenue derived from farming activities;

- the amount of gross revenue derived from all sources;
- a list of the corporation's shareholders and their relationship to each other, if applicable;
- confirmation that at least 80% of the owners of the corporation's voting shares are individuals that are:
 - i. related to each other;
 - ii. resident in British Columbia; and
 - iii. actively engaged in farming or who are the parents, children or spouse of a person who is actively engaged in farming;
- the corporation's complete set of financial statements prepared in accordance with generally accepted accounting principles ; and
- a copy of the federal corporate income tax return (T2), including all supporting schedules.

If the branch is satisfied that the criteria for exemption have been met, a letter confirming the exempt status for CCT purposes will be sent to the corporation.

The family farm corporation must meet the exemption criteria **in each taxation year** to be exempt from tax in those years. Therefore, if the status of the family farm corporation changes, the onus is on the taxpayer to notify the branch. It is branch policy to review the exempt status of all companies on an intermittent basis. Corporations are not required to file a return if the tax exempt status is unchanged.

C. Refunds of Instalments

If the family farm corporation has already made instalment payments in respect of a taxation year, but now qualifies for exempt status, it is eligible for a refund of these tax instalments.

Any such request for a refund of instalments must be in writing and signed by an authorized officer of the corporation. The request must clearly state:

- the corporation's name and CCT account number;
- the amount of the instalments to be refunded;
- the relevant taxation year-end;

- the reason for the request (i.e. the taxpayer believes it is exempt from CCT pursuant to paragraph 4(3)(j) of the Act).

Note: The branch will only refund full instalment amounts; no partial instalments will be refunded. Interest on instalments amounts which have been requested for refund will be paid from the effective date of the payment.

If the branch later determines that the corporation is not exempt from CCT, and the amount of the refund results in an instalment deficiency, the corporation will be liable for interest and/or penalty charges.

NEED MORE INFO?

This bulletin is provided for convenience and guidance.

For further information, please contact:

**Ministry of Small Business and Revenue
Income Tax Branch
PO Box 9444 Stn Prov Govt
Victoria BC V8W 9W8**

**Telephone: 250 953-3082
Fax: 250 356-0434**

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www.gov.bc.ca/sbr While there, you can
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