

Exemptions for Transferring a Family Farm

Property Transfer Tax Act

This bulletin explains the requirements that must be met to claim an exemption from the property transfer tax (tax) when transferring a family farm.

For information on the requirements that must be met to claim an exemption from the tax when transferring to and from a family farm corporation, please see [Bulletin PTT 009](#), *Exemption for Transfers to and from a Family Farm Corporation*.

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

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DEFINITIONS

Family Farm

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

- an individual
- family members
- a family farm corporation

The land must meet specific requirements under the [Assessment Act](#), and must be classified as farm land by [BC Assessment](#).

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

Please note that although the people on this list are also family members, only certain family members are related individuals.

Spouse

A person can be your spouse by marriage, by a common-law relationship or 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 the both the following conditions are met:

- the farm meets the definition of a family farm, and
- the farm is transferred to eligible people.

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

You can transfer your family farm exempt of tax directly to your related individual or, effective February 18, 2004, 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 your estate, or a trustee of a registered trust established under your will, can transfer the title of your family farm exempt of tax if all these additional conditions are met:

- the land being transferred was your family farm immediately before your death,
- the person receiving title to your family farm must be a beneficiary of your estate or trust, and
- the person receiving title must be your related individual or, effective February 18, 2004, your sibling or a person who is the spouse of your sibling at the time of your death.

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 both these additional conditions are met:

- the person receiving the family farm must be a beneficiary of the trust, and
- the person receiving the family farm must be your related individual or, effective February 18, 2004, your sibling or a spouse of your sibling.

Net Interest Passing

If the registered fee simple ownership of the property is held in joint tenancy, application of the Act to the transfer of a partial interest is determined based on the **net interest passing**. As an example, A and B own a property as joint tenants and wish to transfer the interest of B to C with the result that A and C will hold the registered fee simple ownership of the property as joint tenants.

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

For the purposes of the Act, A's interest in the property **has not changed** as a result of the transfer. Whether the transfer is eligible for the exemption is determined based on the transfer of a 50% interest in the property from B to C.

HOW DO I CLAIM THE EXEMPTION?

To claim the exemption, you must present a completed *Special Property Transfer Tax Return* form (FIN 579S) at the Land Title Office when you file the transfer. This form is available at a Land Title or Service BC-Government Agent office. As well, you can order a form through the Forms Order line at 250 387-2183.

The property transfer tax calculation is done in Section F of the form, and you claim the exemption by filling in the Exemption Code 07 on Line 2.

A sample return and an instruction guide to help you complete the return are available on our website.

Lawyers and notaries can electronically file transfers with the Land Title Office.

NEED MORE INFO?

This bulletin is provided for convenience and guidance.

If you have any questions, call us in Victoria at 250 387-0604 or, if you are calling from outside of Victoria, call Enquiry BC toll-free at 1 800 663-7867 and request a transfer to 387-0604, or e-mail your questions to PTTENQ@gov.bc.ca

Information is also available on the web at www.gov.bc.ca/sbr While there, you can subscribe to our free electronic update service.

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