

# Exemptions for Transfers to and from a Family Farm Corporation

## *Property Transfer Tax Act*

This bulletin explains the requirements for claiming an exemption from property transfer tax when transferring a family farm to and from a family farm corporation.

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

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](http://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 one 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 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
- 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 to and from family farm corporations exempt of tax in the following ways:

- directly to an eligible corporation
- 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 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 or, effective February 18, 2004, 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 or, effective February 18, 2004, a sibling, 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 your estate, or a trustee of a registered trust established under your will, can transfer the title of a family farm exempt of tax to a family farm corporation if both these additional conditions are met:

- the land being transferred was your family farm immediately before your death, and
- each other shareholder, if any, of the family farm corporation was your related individual or, effective February 18, 2004, a sibling or spouse of a 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 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 both these additional conditions are met:

- the land must be your family farm, and
- each other shareholder, if any, of the family farm corporation is your related individual or, effective February 18, 2004, a 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 18 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](mailto:PTTENQ@gov.bc.ca)**

**Information is also available on the web at [www.gov.bc.ca/sbr](http://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)(c.1), 14(3)(d.1), 14(3)(f) and 14(3)(g)