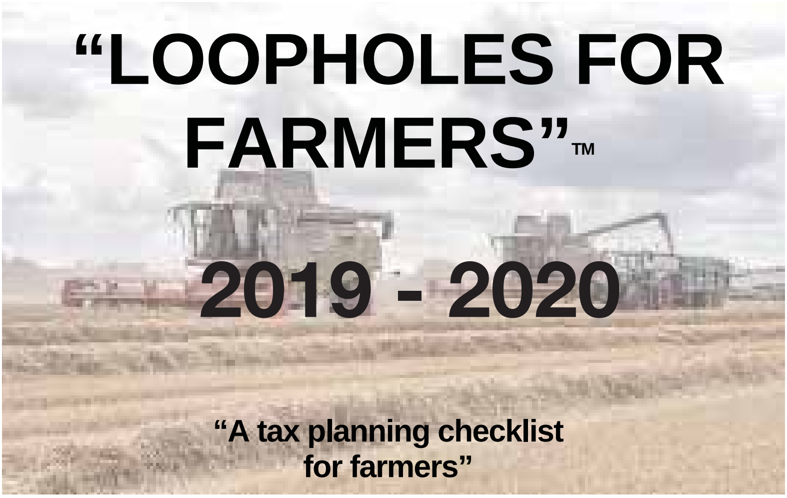

# "LOOPHOLES FOR FARMERS"™

## 2019 - 2020

**"A tax planning checklist for farmers"**


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"Loopholes for Farmers" is a tool that can be used to reduce the overall taxes that you pay. This is not an exhaustive list of tax planning ideas but is simply a summary of the more significant savings and planning opportunities available today in British Columbia. Professional advice should be sought to ensure that a particular idea is applicable to your personal situation.

**Please review the checklist, and if any of the items seem to relate to your situation, please do not hesitate to call.**



$14.95 + GST (complimentary for clients)

## HOW TO USE THIS CHECKLIST:

This “Loopholes for Farmers” guide has been divided into the following sections:



There are very specific tax laws that relate **only** to farmers. **It is very important that you are aware of how to use these rules to your advantage.** If a tax rule is missed or misused, this error could easily cost you hundreds of thousands of dollars. This is especially true when you are selling your farm or transferring it to children.

1. Read each section that applies to you. Check the ☐ box of each “loophole” that could be used in your circumstance.

2. **BE SURE TO TAKE NOTE OF THE NEW TAX RULES FOR THIS YEAR, WHICH HAVE BEEN HIGHLIGHTED IN UNDERLINED.**

3. Bring this booklet with you when we are tax planning for you or preparing your income tax return and we will help you get the maximum benefit from those planning points. If you miss available deductions or planning points, it may cost you thousands of dollars.

4. These “loopholes” represent various methods to use existing tax laws to your greatest advantage. **As a taxpayer, you should always look at the tax rules from different angles and structure your tax planning in a way that will result in a benefit for you and your family.**

5. For further information regarding your tax issues, please contact our offices at:


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| Armstrong: | 250-546-8665 | Enderby: | 250-838-7337 |
| Lumby: | 250-547-2118 | Salmon Arm: | 250-832-5129 |
| Sorrento | 250-675-3440 | Out of town (toll free): | 1-888-818-FARM |

| | | |
|---|---|---|
| Email: | Chris Henderson | ch@rhllp.ca |
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| Tax Law | Planning Point |
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## GENERAL INFORMATION

**Farmers are classed into three categories:**

- ***Full-time farmers***

- Full-time farmers are not subject to a limit on the amount of losses that are deductible.
  - ➢ You should try and establish your farm operation as full-time.

- ***Part-time farmers***

- Part-time farmers are restricted to the amount of loss that can be claimed. The maximum that may be claimed in one year is $17,500.
  - ➢ If possible, set your farm operation up as a partnership as each partner will be eligible for a maximum loss of $17,500.

- ***Hobby farmers***

- Hobby farmers cannot deduct any farming expenses as CRA views them as being entirely for personal benefit.
  - ➢ Never advise CRA that you consider your farm a hobby. Ensure you have documentation supporting a reasonable expectation of profit.

- If you or your spouse are self-employed, **you have a June 15 deadline for your personal income tax returns, however, any taxes owing are still due on April 30 and CRA will charge interest for unpaid taxes as of April 30.**
  - ➢ You may want to consider making a lump-sum instalment before April 30 to cover the estimated taxes owing if you cannot file your return by that date.

- Partnerships have to file a partnership return if:
  - The partnership has more than $5 million in assets OR revenues <u>plus</u> expenses greater than $2 million
  - It is a tiered partnership
  - Partnership has a corporation or trust as a partner
  - Partnership is invested in flow-through shares; or
  - The minister of National Revenue requests one
  - ➢ The T5013 must be filed by March 31st each year. Please note, the assets are calculated as the cost of all assets both tangible and intangible excluding any depreciation. If you think that this may apply to you, please contact our office.
  - ➢ You may want to consider filing a T5013 Partnership Return even if not required to do so to ensure that your Partnership Return is statute-barred.

| Tax Law | Planning Point |
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| **A farmer can use deductions such as CCA for Guaranteed Income Supplement (“GIS”) purposes.** | You should deduct CCA for GIS purposes but not for income tax purposes. This way you do not waste personal exemptions. |
| If you had a profit from your farm last year and had to pay taxes at the end of the year, CRA will likely require that you make instalment payments for this year. | Individual farmers are allowed to make one annual instalment due on December 31. Farm Corporations are required to make monthly instalments. |
| On April 1, 2013 BC returned to charging GST at a rate of 5% (previously HST at 12%). | Be sure your record keeping system captures all the GST paid on expenses. There are some sales items that GST must be charged on by farmers. For example, **farmers must charge GST on the sale of equipment, leasing land, contract work, selling horses and selling hay for horse consumption**. |
| Taxpayers with gross revenue of less than $30,000 are not required to register for GST. | Consider registering voluntarily, as you will not charge GST on most farming income, but then you can recover the GST paid on your purchases. |
| Farmers who own/lease or operate a farm on land classified as farm under the BC Assessment Act or on land outside of BC for a qualifying agricultural use under the Assessment Act may purchase certain items exempt of PST. | To substantiate an exemption from PST on specified goods used for a farm purpose, you will be required to provide to the seller or lessor of the goods either your Farmer Identity Card issued by the BC Agriculture Council or a completed declaration form. Forms can be found at: https://www2.gov.bc.ca/gov/content/taxes/sales-taxes/pst/forms |
| Easement sales may qualify for the capital gains deduction (“CGD”). ALR swaps and the first year changes on surface leases may also qualify for the CGD. | If possible, consider using the “ACB” adjustment instead of using the capital gains deduction. |

| **Tax Law** | **Planning Point** |
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| Properties with farm status have lower rates of municipal taxes and property insurance. The BC Assessment Authority determines your status. | Try to have your property assessed as farm. Farm property taxes are considerably lower than residential. There are "developing farm" classifications for starting farms. |
| There is a farm class for retired farmers under BC Assessment | Provided you meet all the criteria, your property may still qualify as farm property without having the prescribed amount of sales. |
| Farmers can earn Carbon Credit by adopting practices that reduce emissions, such as no-tilling and direct seeding. | Carbon Credits can be bought and sold on an open market, which will be taxed as income to the farm. |
| Partnerships provide a lot of flexibility with respect to future tax planning and the ability to access the Capital Gains Exemption. However, there are very complex tax rules that can apply. Joint ventures may offer high income farms the possibility of increasing the amount of income that is taxed at low rates. | In situations where you are adding a new partner, removing an old partner, moving a partnership into a company, or dealing with a partner, you should always consult with a knowledgeable advisor. |
| Siblings may break the ownership line for the capital gains exemption. | Take this into consideration when structuring farm ownership and succession. |
| There are income tax issues if life insurance policies are not properly structured. | Ensure the payor and the holder of the life insurance is the same or there are taxable benefit issues. |
| You can earn up to $3,500 of employment income before it affects your Guaranteed Income Supplement. | Consider issuing yourself and your spouse a T4 of $3,500 each. |
| Owners of breeding livestock may be forced to sell all or part of their breeding herd due to drought conditions. | If in one of the "Designated Drought Regions", you may be eligible for a one-year tax deferral on income from those sales. |

| Tax Law | Planning Point |
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| ❑ **Older agricultural wells, as well as new wells, must be registered with the BC Government.** | ➢ **To protect "first in use, first in right", these wells must be registered. If you are an existing non-domestic groundwater user, you must apply within the six-year transition period to maintain your date of precedence. If you submit your application on or before March 1, 2020, your one-time application fees will be waived.** |

## ❑ DEDUCTIBLE EXPENDITURES

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| ❑ Farmers may report income on either a cash or accrual basis. | ➢ Consider using the cash basis for your farm operation, as it is generally easier to manipulate the income reported in any given period. |
| ❑ Any expenses relating to the farm are deductible, including:<br>- livestock purchases<br>- containers and twine<br>- fertilizer and pesticides<br>- seeds and feed<br>- property, equipment, and crop insurance<br>- custom contractor fees<br>- machinery rentals<br>- utilities<br>- office and supplies<br>- professional fees<br>- rent and property taxes<br>- wages<br>- motor vehicle expenses<br>- veterinary and breeding fees<br>- machinery, fence and building repairs<br>- fuel<br>- licenses<br>- small tools | ➢ Cash basis farmers should purchase supplies at year-end to increase expenses for the year if a farming profit was generated in the year. Credit card payments qualify as "paid" in the year. A note payable issued to a supplier may also qualify as "paid". The purchase of additional livestock will be beneficial if in a profit position, but will not be permitted as an expense if doing so will create a farm loss. **"Leasing" cattle can sometimes get around these farm inventory rules.** |

| Tax Law | Planning Point |
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| ❑ The portion of expenses that relate to personal use (i.e. slaughtering a cow for the freezer or using hay for your hobby horses) is **not** deductible by the farm. | ➢ Generally, it is easier to increase your reported farming income to include what that farm would have received had these items been sold to someone else. |
| ❑ 50% of meals and entertainment expenses are deductible. | ➢ Keep good records to support your claim, including who you attended with and for what purpose. |
| ❑ A portion of home office expenses such as rent, mortgage interest, property taxes, utilities, telephone, minor repairs and home insurance are deductible. In-home office expenses cannot be used to increase a loss but can be carried forward indefinitely and used in a year when the farm has a profit. | ➢ If possible, increase farm revenue or decrease other expenses to ensure your home office expenses get claimed. |
| ❑ A farm can pay individuals as subcontractors, saving you the cost of Canada Pension Plan (“CPP”) and Employment Insurance (“EI”) remittances. | ➢ There are specific criteria to consider if a worker is a subcontractor or an employee. Ultimately, the risk of any additional tax liability resulting from an incorrect assessment falls on you, so be sure before you start. |
| ❑ <u>The federal personal exemption for 2020 is $12,298, under which no income tax is paid on earnings.</u> | ➢ **Pay reasonable wages to family members (especially children) to take advantage of these tax-free limits. The children can then contribute to an RRSP or RESP with the funds. Ensure your children file a tax return to maximize their RRSP room for future use and to claim the Canada Workers Benefit tax credit.** |
| ❑ Expenses incurred for clearing, leveling, and draining land are 100% deductible. | ➢ Try and have farm expenses characterized as land leveling and land clearing. You do not have to deduct all the costs for clearing land in the year they were paid. You should carry forward any or a part of the costs to a year you are taxable. |

| Tax Law | Planning Point |
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| ❑ CRA gives tax credits for legitimate research under the Scientific Research and Experimental Development Program. It is designed to help small businesses do research to improve their products. Farmers who qualify for the program can get a 100% tax deduction for the money spent on research and refundable credits. | ➢ Test plots and machinery experiments could qualify for this tax break. Check if contributions used for research and development are also eligible for the refundable tax credits. Any expenditure that result in a “technological advance” qualify. See if you can get yours to qualify, it’s worth it!! |
| ❑ If you use your life insurance policy as collateral for a loan related to your farm, you may be able to deduct a portion of the premiums paid. | ➢ When arranging financing, ask the bank for a letter saying that you need life insurance to ensure the payments are deductible. |
| ❑ Interest on money borrowed to earn farming income is deductible. The purpose of a loan is what determines whether a loan is deductible. | ➢ Always structure loans to be for a business purpose, which makes them deductible. If required, personal assets can still secure the loan. |
| ❑ CRA has stated that payments of mixed debt must be split pro-rata based on the personal and business percentages. | ➢ You should consider splitting your financing into separate loans (business vs. personal) and pay down the personal loan first. |
| ❑ Leasing equipment is an alternative to purchasing, and the lease payments are 100% deductible. | ➢ Ensure it says “lease” if you want lease treatment. It can be structured just like a loan with a $1 buyout and still qualify. If you buy out the lease then sell the equipment for a profit it may be classified as business income, not capital gains. **Watch out for what the lease rates are. They are often much higher than financing costs.** |
| ❑ Cash basis farmers that report a net loss are required to decrease their loss based on the amount of purchased inventory (livestock, fertilizer, chemicals, feed, seed and fuel) that is on hand at the end of the year. This Mandatory Inventory Adjustment (“MIA”) will be deductible in the next year. | ➢ You are only required to include 70% of the cost of Specified Animals (animals registered under the *Animal Pedigree Act*). All horses are considered “specified animals”. |

| **Tax Law** | **Planning Point** |
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| ❑ Leased cattle are not subject to the MIA. | ➢ You should consider this as an option if you wish to create a farm loss. |
| ❑ Cash basis farmers have the option of reporting additional income up to the fair market value of the inventory on hand at the end of the year. This is called an Optional Inventory Adjustment ("OIA") and is deductible in the next year. | ➢ In many cases, it is beneficial to have a moderate amount of profit generated by the farm. For example:<br>• to utilize non-refundable tax credits, which would otherwise expire<br>• to have earned income for calculation of your RRSP contribution limit<br>• to help designate the farm as qualified farm property, which is eligible for the $1,000,000 capital gains exemption<br>• to average taxes over multiple low profit years at low marginal rates as compared with no tax in certain years and very high rate tax in years when the farm does well. |

## USING A VEHICLE FOR FARMING

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| ❑ Expenses relating to a vehicle used for farm purposes are deductible based on the percentage of kilometers driven for business purposes, which must be supported by a travel log. **CRA auditors have stated that if a log is not available, they consider the vehicle to be 100% for personal use, and no deductions are available.** | ➢ Allowable expenses include fuel, repairs, insurance, loan interest, lease payments, and depreciation. Receipts must be kept to support these amounts. **If you are audited and do not have a log, you may be able to prepare a log after the fact based on timesheets, appointment books, or other means, and appeal the reassessment.** |

| **Tax Law** | **Planning Point** |
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| ❑ If an employee uses a farm vehicle for personal use, the employer is required to calculate an "operating benefit" and a "standby charge" based on the number of personal kilometers and include these amounts on the employee's T4. <u>For 2020, the "operating benefit" rate is $0.28/km</u>. The "standby charge" is 2/3 of the annual lease cost or 24% of the original cost. | ➢ The "standby charge" is reduced if personal use is less than 50% and less than 20,004 km/year in total. Because the standby charge is so onerous, a vehicle should generally only be owned by a business if it is used more than 90% for business use and personal use will be less than 1,000 km/month. |
| ❑ A vehicle defined as a "passenger vehicle" by CRA has special rules that reduce the allowable deductions for depreciation, lease costs, recapture and interest. The maximum cost for depreciation is $33,600 (which includes GST and PST), the maximum lease cost is $800/month, and the maximum interest is $300/month. If not determined to be a "passenger vehicle", the full expenses are deductible. | ➢ A vehicle is not an "passenger vehicle" if:<br>• It seats 3 people and is used more than 50% for business use, or<br>• It seats more than 3 people and is used more than 90% for business. This vehicle must be a van, pick-up or similar vehicle ad used to transport goods, equipment, or passengers to earn income.<br>These tests only apply in the year of acquisition. Acquire new vehicles just prior to the end of the year and ensure it meets the test for this short period. There are special rules for the disposition of a "passenger vehicle". |
| ❑ Employers are permitted to deduct a traveling allowance paid to employees for vehicle use, which is non-taxable to the employees. <u>For 2020, the rate in B.C. is $0.59/km for the first 5,000 kilometers and $0.53/km thereafter.</u> | ➢ If actual vehicle expenses (insurance, repairs, fuel, loan interest, etc.) exceed this rate, actual costs can be claimed. However, receipts and a mileage log must be maintained to support the claim. |

| Tax Law | Planning Point |
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| **CAPITAL EXPENDITURES** | |
| ❑ CRA allows farms to deduct an amount for the depreciation of equipment used in the farm, referred to as the "Capital Cost Allowance" ("CCA"). The amounts for different types of equipment are set by CRA, although only ½ of the annual amount is permitted in the year of acquisition. | ➢ Make capital purchases close to the end of the year. In this way, you get a half-year claim when only owned for a few days. Wait until the beginning of a new year to dispose of equipment as there is no CCA claim in the year of sale. |
| ❑ For assets purchased after November 20, 2018, CRA has increased the first year's depreciation from half the normal rates to 50% more than the normal rate. This accelerated rate will be phased out beginning in 2024. This does not apply to assets purchased from a non-arms' length party or assets transferred through a rollover. | ➢ Be sure to let you accountant know of any purchased you made after November 20, 2018 as this will provide you with a much better write off. |
| ❑ Tools with a cost less than $500 are considered Class 12 additions for tax purposes, and are fully deductible in the year of purchase. | ➢ It is important to ensure these are appropriately recorded, as the alternative is Class 8, which is a deduction at 20% per year. |
| ❑ Certain manufacturing assets and technological equipment can be put into a separate class when acquired so that when disposed of, a tax savings can be realized if the selling price is lower than the tax value. | ➢ Dairy farms may be considered "manufacturers". Consider putting these assets into these special classes. |
| ❑ Trucks purchased that are used to haul freight with GVW of larger than 11,788 kg are included in Class 16. | ➢ The rate of depreciation for Class 16 is 40%. Be sure your truck is recorded in Class 16 and not Class 10, which is only depreciated at 30%. |
| ❑ Construction costs for a paved road are a capital asset added to Class 17. The costs for unpaved roads are deductible expenses. | ➢ Leave the roads built on the farm unpaved, as the cost of building them is fully deductible. |

| Tax Law | Planning Point |
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| ❑ There is currently a CCA rate of 50% on a declining-balance basis for machinery & equipment acquired after 2015 and before 2026 primarily for use in Canada for the manufacturing and processing of goods for sale or lease. <u>The rate has increased to 100% for these assets purchased after November 20, 2018, This accelerated rate will be phased out beginning in 2024. This does not apply to assets purchased from a non-arms’ length party or assets transferred through a rollover.</u> | ➢ Ensure manufacturing and processing machinery and equipment included in the appropriate CCA class to take advantage of this increased deduction. There are enhanced CCA claims for clean energy generator and electrical generator from waste heat. |
| ❑ If an asset has had too much CCA claimed on it over the years, the tax value will be lower than the fair market value. When sold, such an asset will result in an income inclusion called “recapture”. | ➢ Transfer Classes 2-12 to Class 1 in order to defer the recapture of capital cost allowance when you sell assets. The purchaser, including children, can put the purchase into normal classes. |

## FARMING IN A CORPORATION

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| ❑ The main reasons to incorporate a farm are as follows:<br>❑ Lower tax rates<br>❑ Separate legal entity<br>❑ Ability to plan and control personal income | ➢ Each of these reasons must be examined in relation to your current situation and your expectations for the future. There are additional costs to having an incorporated farm, so it is important to ensure the benefits will outweigh this cost. |

| Tax Law | Planning Point |
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| Effective for taxation years that begin after 2018, the small business deduction will be reduced once investment income in the Canadian Controlled Private Corporation ("CCPC") exceeds $50,000. For every $1.00 of investment income that exceeds $50,000, the small business deduction will be reduced by $5.00 in the subsequent year. Once investment income exceeds $150,000, the small business deduction will be eliminated. <u>There is certain relief to sales of farming products and fishing catches to arm's length corporation which applies to years that begin after March 21, 2016.</u> | The definition of investment income for purposes of these rules starts with the normal definition of aggregate investment income, then makes the certain specific additions. |
| Effective for year-ends after 2018, Refundable Dividend Tax on Hand (RDTOH) will only be refunded in cases where a private corporation pays an ineligible dividend. | There is an exception to this rule where you build up RDTOH through eligible dividends received. In this circumstance, a 2nd RDTOH pool will build up and eligible dividends will trigger the new RDTOH pool to be refunded. |
| The corporate tax rate is <u>11%</u> on the first $500,000 of active income as compared with <u>50%</u> when taxed personally. | If you can leave excess cash in a company, there will be significantly more after-tax dollars to invest or make the farm grow faster and pay down debt. |
| "Eligible" dividends are taxed at a significantly lower tax rate than regular dividends. | If your company has active income in excess of the $500,000 small business limit, you should review whether paying "eligible dividends" is more tax advantageous than management bonuses. |
| A tax court decision has determined that dividends can be paid to one class of share and not another. | When setting up your company, be sure and give both spouses different classes of shares as it provides more options for remuneration. Joint ownership of shares with a spouse should be considered to avoid possible probate if one of the spouses dies. This may reduce the ability to "dividend sprinkle". |

| Tax Law | Planning Point |
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| ❑ A dividend that has been declared, but not yet paid is reported on a separate tax return when you pass away and results in the ability to get nearly tax-free money to your estate. | ➢ If you are elderly or of ill health, consider declaring a dividend in your company, but not paying it to minimize some estate taxes. |
| ❑ When incorporating, cash basis accounts receivable cannot be rolled in tax-free. | ➢ Consider purchasing cattle inventory in the proprietorship/partnership to reduce the impact of these accounts receivable. The inventory can be rolled to the company and the income for the sale of the inventory will be used to offset the deduction from the accounts receivable. |
| ❑ A corporation does not qualify for the principal residence exemption or the provincial home owner grant. | ➢ You should attempt, by trust declaration, to transfer the house and 1 acre into your own name. Then, by registering a 1/1000 interest ownership of the property or a life-estate jointly into you and your spouse's names you can claim the principal residence exemption and can also claim the provincial home owners grant. |
| ❑ Corporate losses cannot be transferred to an individual. | ➢ When starting a farm, if you are expecting start-up losses, operate as a proprietorship or partnership. These "start-up" losses can be used against other income and can even be carried back to prior years. |
| ❑ <u>There are accelerated tax write-offs available for purchase of zero-emission vehicles purchased on or after March 19, 2019 and made available for use before 2024. The new classes are designed to allow a 100% write-off in the year of purchase. The write-off is reduced to 75% for 2024-2025 and to 55% for 2026-2027. The write-off of zero-emission passenger vehicles is subject to a cap of $55,000.</u> | ➢ <u>Consider taking advantage of the increased tax write-offs for zero-emission vehicles.</u> |

| **Tax Law** | **Planning Point** |
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| **SELLING A FARM & TRANSFERS TO CHILDREN** | |
| ❑ The Lifetime Capital Gains Exemption Limit was increased to $1,000,000 in 2015, for “qualified farm/fishing property” and shares of a family farming/fishing corporation**.** | ➢ Structure your affairs to ensure you and as many family members as possible qualify for this deduction. |
| ❑ It is possible for the sale of a farm (or quota) to be tax-free if your farm qualifies for the lifetime $1,000,000 capital gains exemption. | ➢ There are specific rules that determine if your property qualifies based on the use of the property and the length of ownership. You should always look at this option as it can save up to $249,000 of tax per owner. |
| ❑ If you acquired the property after 1987, you must meet a 2-year gross revenue test to determine if farm property qualifies for the capital gains exemption. This test requires that your gross revenues from farming exceed all other sources of income. | ➢ If you operate your farm as a partnership, you are not required to meet this test. The land need not be registered in the name of the partnership if the farmer has been reporting as a farm partnership on their tax returns. |
| ❑ If you received your property from your parents (not siblings), you may be able to fall back on your parents farming history to see if the farm still qualifies for the capital gains exemption. | ➢ You should always consider the history of a property when family is involved. Old tax returns can help support such a claim. Affidavits from neighbors, family pictures and old dairy or apple co-op records all are good evidence. |
| ❑ If you owned a farm prior to 1987, but claimed the 1994 capital gains election, you are considered to have re-purchased the property after 1987 and now must meet the gross revenue test. | ➢ You can still look to your farming operation pre-1994 to determine if you meet the gross revenue test. Again, this should be supported by tax returns. |
| ❑ You can transfer qualified farm property at its tax cost to children during your lifetime or at your death. | ➢ The child acquires the farm property at the same tax value as the parents. When a parent’s child dies, this rollover is NOT available to the child’s spouse. |

| Tax Law | Planning Point |
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| ❑ The sale of timber from qualified farm property may qualify for the capital gains exemption. *Gravel sales follow the same treatment.* | ➢ A tax court case involving the sale of timber from qualified farm property was found in favor of the farmer. If you are planning to sell timber, try to structure the agreement for sale to be similar with this case**.** If you have paid tax on timber sold from farmland, you should file an amendment as soon as possible. |
| ❑ **If you are selling land with standing timber, you may be subject to BC Logging Tax on the standing timber**. | ➢ **Identify the value of standing timber at $0 in the sales agreement and insist that the purchaser does not deduct the value of standing timber on his/her tax return.** |
| ❑ The CRA views sharecropping as rental activity, not active farming. As such, it may taint your ability to meet the requirements for the capital gains exemption. | ➢ Structure your situation as a custom farming arrangement or farming joint venture agreement, where you are a farmer and the other individual is doing work on the farm for you. |
| ❑ An interest in a farm partnership also qualifies for the $1,000,000 capital gains exemption. | ➢ If possible, always try to structure your farm as a partnership as it provides a significant amount of flexibility that result in tax savings. Also, a new partner does not need to hold their partnership interest for 2 years in order to claim the $1,000,000 capital gains Exemption. **A family member can transfer assets to an existing family farm partnership and then immediately afterwards use the capital gains deduction on the sale of the partnership interest.** |
| ❑ A company is not eligible for the capital gains exemption when selling assets. Therefore, you should “encourage” the buyer to purchase shares in order to utilize your capital gains exempt. | ➢ Consider selling at a lower price to ensure that the purchaser acquires the shares. The tax savings could more than offset the reduction in direct proceeds. |

| Tax Law | Planning Point |
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| ❑ It is possible for woodlots to transfer tax-free to the next generation. Woodlots, whose marketable product can only be created at a time period beyond the taxpayer's life expectancy may have reasonable expectations of profit problems. | ➢ Ensure that the transferor or a family member be actively involved as required by a prescribed forest management plan. This is a requirement for the tax-free inter-generational rollover. |
| ❑ When reporting a sale using the capital gains exemption, you will still have a very high net income despite not having to pay much tax. This may affect your ability to claim social benefits such as child tax, OAS, and the GIS. | ➢ There may be ways to spread out a sale over a number of years to have the same tax result, but allow you to continue to claim these social benefits. These options are only available if drawn-up as part of the sale agreement, so you should seek professional advice as soon as you think you might want to sell. |
| ❑ **Although the capital gains exemption may reduce your taxes calculated under the normal method to nil, the "alternative minimum tax" ("AMT") rules may still apply that will have you paying some tax.** | ➢ AMT is essentially a "prepayment" of tax for the next 7 years. If you have taxable income in those years, you may be able to offset the tax with the AMT that was incurred in a prior year. AMT should always be considered when evaluating the options of a farm sale as it can potentially be reduced or eliminated. |
| ❑ CRA provides for a taxpayer to sell their home on a tax-free basis using the "principal residence exemption". The principal residence exemption is generally limited to the home and the ½ hectare (1.2 acres) it is situated on, although recent tax court decisions have allowed significantly more than this. | ➢ The principal residence exemption and capital gains exemption can both be claimed on a single property. You should always claim the maximum amount for the principal residence exemption, thereby saving the capital gains exemption for future sales. |
| ❑ If you sell your principle residence during the year you must report this on your personal tax return, even though there are no tax consequences. | ➢ Make sure to notify whomever is preparing your tax return of the sale of a principle residence so it can be recorded correctly. |

| Tax Law | Planning Point |
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| If you sell your farm, but do not receive all of the money immediately, you do not have to pay the full amount of taxes. A "reserve" can be claimed based on the pro-rata portion of money received, with a minimum of 20% of the gain being reported in any year. This reserve is not available where a gain is recognized on the transfer to a "controlled" company. | If you sell to a related party (i.e. a child) you only have to report 10% of the gain in any year. You will need to determine whether it is more advantageous to claim the income all in one year or over a number of years. |
| If there are 2 parcels of farm land jointly owned by 2 siblings (individuals), the land can be portioned so that only 1 name will remain on each property. | There are no tax consequences providing each parcel has the same value. |
| If you sell farm property and replace it with a similar farm property, the tax on the initial sale can be deferred until the new property is sold. In some cases properties purchased prior to the disposition of the farm property can be considered replacement properties. | Always try and have properties classified as farm properties instead of rental properties to ensure they qualify for the replacement property rules. |
| CRA has special rules when you are selling your farm to your children. In particular, you may be able to transfer the farm at a value between what you paid for it and what it is worth today, making the transaction non-taxable | This provides a lot of tax planning flexibility. You are also able to claim the principal residence exemption, the capital gains exemption and the capital gains reserve on such transactions. Any consideration paid by the children may affect the elected value. Also, the children must own the farm property for 3 years before selling; otherwise the parents will have to pay the tax on the gain. |
| Once a farm has been transferred to a child, the child faces all the same rules and tax options available to the parents. However, there are some holding period tests to be met to ensure the various exemptions will still apply. | Transfer to children well before (3 years) of an ultimate sale if you are intending to sell a farm outside of the family group. If done properly this can "multiply" the capital gains election. |

| **Tax Law** | **Planning Point** |
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| ❑ If you want to transfer your farm to your child, but do not necessarily want to give them full control of the farm at this time, a family trust may be used. | ➢ All of the above considerations continue to be available, plus you get the benefit of maintaining control of the underlying assets. However, this does come with the additional cost to setup and maintain the trust once established. |
| ❑ On death, most farm assets can transfer to children at any value between cost and fair market value. **Quota owned in a proprietorship is an exception, which can only transfer at cost at the date of death.** | ➢ **Given the lack of flexibility at death, it is generally preferable to own quota in a family farm partnership or a corporation.** |
| ❑ Inventory, when transferred to a child, is done so at its fair market value and will likely result in tax. However, if you incorporate a company, the inventory can be transferred on a tax-free basis. | ➢ You should consider transferring the inventory through your will so the tax is deferred until it is actually sold. The inventory included in income the previous year will be expensed the next. |
| ❑ Leasing cattle to a child is an alternative to a rollover of the cattle at their fair market value. | ➢ Make sure the lease gives your child the option to purchase a percentage of the herd (and you receive an annual payment) so that CRA will not view the lease as a complete sale and tax you on it. |
| ❑ When the owner of a farm property dies, he is subject to a deemed disposition of all assets immediately prior to death. | ➢ Transfer property by bequeathing or gifting to defer any tax payable. Use as much of the deceased's capital gains exemption as possible. Ensure RRSPs are left to spouse for tax-free rollover. |
| ❑ Probate applies on death when assets are held personally. | ➢ Hold land and shares of companies in joint names with spouse to avoid probate. |
| ❑ Land ownership can be separated from the right to use the land, by use of a rental or lease agreement. | ➢ Consider this strategy to help make the allocation of farm amounts more equitable amongst farm children and non-farm children. |

| Tax Law | Planning Point |
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| ❑ **There are a number of considerations when transferring a farm to a successive generation. Most importantly, these include:**<br>• How to fund retirement cash needs<br>• How to deal with non-farm children and the Wills Variation Act<br>• How to protect against future legal and matrimonial issues<br>• How to avoid property transfer taxes<br>• How to minimize the effect of alternative minimum tax and social benefit clawbacks<br>• How to ensure the liquidity and continuance of the farm.<br>• BC Probate taxes | ➢ **This is not an exhaustive list of considerations, as each family and situation is different. Further, your answer to certain issues will negatively affect other issues. As a result, there is never a single "right" answer. Instead, you should involve your accountant, lawyer, banker and investment advisor from the beginning to navigate through all the considerations and to determine the course of action that best meets your objectives.** |
| ❑ In certain circumstances, land inside of the ALR can be "traded" for property outside of the ALR. | ➢ A developer may pay you to have your land designated as ALR land if it creates the opportunity to "swap" for land that could be subdivided and developed. |
| ❑ At a farmer's date of death, there is a deemed disposition of all his/her assets. | ➢ There are tax free rollovers and capital gains exemptions and the ability to file a separate rights and things return. Be sure that your farm properties qualify for the rollovers. |

| Tax Law | Planning Point |
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## GOVERNMENT PROGRAMS

- ❑ Agriculture Canada has many programs available to farmers including:
  - AgriInvest
  - AgriStability
  - AgriRecovery
  - AgriInsurance

- ➢ **AgriInvest** is where the producer can contribute up to 100% of their allowable net sales once per year, and the government will match the first 1% of that amount. These types of accounts are used to help put money aside that would be used for small income shortfalls.

- ➢ **AgriStability** is where a producer pays a fee to receive an insurance backed by the government. The program offers assistance once a producer's margin falls below 70% of their historical reference margin. **Farmers can enroll late without penalty until April 30, 2020.**

- ➢ **AgriRecovery** is a disaster relief framework for governments to provide special one-time relief not covered by the other "Agri" options.

- ➢ **AgriInsurance** is an aggregation of all existing production insurance for particular industries.

- ❑ In order to qualify for "Agri" programs, you must be registered and have paid your annual fee.

- ➢ Consider registering for as many government programs as possible as they are only available to participants.

| Tax Law | Planning Point |
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| ❑ **The BC Provincial Government manages a program called Canadian Agricultural Partnership which provides funding to farmers for various services including:**<br>❑ "Disaster Recovery Planning" to help producers implement an immediate and long-term disaster recovery plan.<br>❑ "Specialized Business Planning" to enable B.C. producers and processors to make more informed decisions and strengthen their business. | ➢ **To be eligible, the farm must have a minimum of $30,000 in annual gross farm income as reported to CRA.**<br>**Eligible applicants can access up to $5,000 for individuals and $30,000 for groups for business planning services from a Qualified Business Consultant ("QBC").**<br>**We have 3 such Qualified Business Consultants in our office.** |
| ❑ The Environmental Farm Plan program provides significant funding for farmers. | ➢ The government has funding available to assist with the purchase of equipment that helps to mitigate risks for environmental issues. |
| ❑ The Western Livestock Price Insurance Program is designed to help cattle and hog producers in Western Canada manage price risks faced by the industry. | ➢ For further information on this program please go online to www.wlpip.ca |

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CHARTERED PROFESSIONAL ACCOUNTANTS
BRITISH COLUMBIA

**NOTICE TO USERS: This information is of a general nature. We try to ensure its accuracy and timeliness. No one should act on it without appropriate professional advice after a thorough examination of the facts of a particular situation. Information in this booklet is current to January 31, 2020. Changes after that date are NOT INCLUDED.**