
TAXATION OF FARMING

Jeremy J. Herbert, Felesky Flynn LLP, Edmonton

Jason Stephan, CA, Jason Stephan Prof. Corp, Red Deer

Options and strategies for transitioning the family farm

This session will include a discussion of the following:

- Brief review of key legislative provisions (capital gains deduction for QFP and inter-generational rollover provisions)
 - assume that a general understanding of the provisions are known to the audience
 - these basics have been reviewed in prior years presentations
- Explore nuances and differences in the operation of these provisions in specific factual circumstances
 - comment on and contrast eligibility for capital gains deduction for QFP vs intergenerational rollover
 - application on death vs inter vivos
 - application to farmland, corporations and partnerships
- Review the application of these rules by considering various case studies. Possible examples to highlight:
 - Highlight practical issues that we are seeing, including the difference between giving up control (but keeping some equity value for retirement) vs giving up equity but keeping control.
 - Need to understand family objectives to provide proper advice
 - Plan when the first generation is still alive for related party butterfly flexibility if breaking up a FarmCo
 - Issue of siblings not being related for subsection 55(2) purposes
 - Use of Joint Ventures
 - Tips and traps to highlight interesting scenarios
 - when considering the assets of a corporation for the QFP test or intergenerational rollover provisions, the “used principally” test is key. Can you count years when land was owned personally when considering the used principally test for the corporation’s assets? How far does this idea extend?
 - Idea that you cannot break the lineal chain of family ownership for the intergenerational rollover provisions
 - Others?
- *If time and space permits*
 - *review usage of replacement property rules in the context of an exchange of personal land for corporate land*
 - *highlight potential tax risks of granting to related parties in the money options for the purchase of farmland as an estate planning tool*