

## Planning for major life transitions

# Agricultural succession planning

Farm succession planning is one of the most important yet challenging aspects of running a family farm. With the average age of Canadian farmers increasing and many farms being family-run, transitioning the farm to the next generation or an external party requires careful legal, financial and tax planning. Without a well-structured plan, farms can face financial strain, family disputes and even forced sales.

## Why a farm succession plan is important

**Ensuring business continuity:** A well-structured plan can help to ensure that the farm continues to remain operational, financially stable and profitable. It can allow for a mentorship opportunity, a gradual handover and for all parties involved to take part in the decision-making process.

**Minimizing tax liabilities:** Speak to an accountant early to develop the best way to plan, as there are special tax provisions for an intergenerational farm transfer to a child or grandchild. Farm business owners will also want to utilize the lifetime capital gains exemption (LCGE) if they qualify.

**Maintaining family harmony:** It is important to have the conversation early in order to adjust the plan and avoid pressures in a crisis situation. Surprise planning leads to catastrophic situations, so it is best to be transparent early on.

**Protecting the farm's legacy:** It will be important for the family to have routine meetings and to determine what the long-term vision is for the farm. Is it to remain in the family or is to be sold to a third party?

## The importance of a written plan

A family conversation is not enough, a plan needs to be in writing. The plan should evolve with changes in life including the health of family members, changes to tax rules, farm operations, etc. A formal document provides clarity and avoids misunderstandings. It will outline who is to take over the operations and should clearly define who owns what. This can help avoid confusion and disputes. A written plan can also ensure that there is fair treatment of all heirs and reduce the risk of litigation.

### Considerations when looking at tax planning for farm succession

- 1. Lack of planning for capital gains:** There can be a deemed disposition on the transfer of farm property or on the sale resulting in a capital gain. It is advised to work with an accountant to take advantage of any rollover opportunities for transfers to a spouse, child or grandchild.
- 2. Using the lifetime capital gains exemption (LCGE):** As of June 25, 2024, the LCGE increased to \$1.25 million. This means farm owners are able to shelter up to that amount of realized capital gains when they sell. It has to be considered a qualified farm property that is used in a farming business. This amount will be indexed to inflation starting in 2026.



3. **Updating the plan:** Failure to update the succession plan based on changes in tax rules can have detrimental consequences. It is advised to consult an accountant to see if any changes are needed.
4. **Income splitting:** Work with an accountant to structure the farm to take advantage of income splitting opportunities, if available. While there are “tax on split income” rules that limit splitting certain types of income with family members, there is the option to pay a reasonable salary to family members who are in a lower tax bracket for the services they provide, allowing them to take advantage of their lower marginal tax rates.
5. **Estate freeze:** This is a transaction to “freeze” the value of appreciating assets. The goal is to transfer the future growth of the asset — and the associated tax liability — to family members or the next generation. It is important to consider incorporating the farm to freeze the value of the farm at a certain point. This will allow for future growth to be in the hands of future generations, thereby limiting tax liabilities.

## Other benefits of a succession plan

A succession plan gives the opportunity to get advice on the tax implications and see what the best next steps are based on the owner’s long-term goals:

- How to structure ownership of the farm.
- How to pass the farm to the next generation with the least tax liability.
- What the associated risks are with respect to the transfer.
- How to protect the farming business.

It can reduce the risk of litigation, sibling rivalries and a forced sale. Without a plan in place or a will, it could completely change the outcome of the farm owner’s goals, as provincial legislation applies. If children are involved in the farming business and other children are not involved, the non-farming children could force a sale in order to receive their share of inheritance. This could create lifelong conflict for the children.

A succession plan can ensure the farm owner’s business continues in the event of incapacity or death. It can help preserve the legacy of a farm property that has been passed on from generation to generation.

## Agricultural succession planning checklist

### Initiate early conversations

- Start discussions with family members about the future of the farm.
- Address concerns and gather input from all parties involved.
- Create a formal, written succession plan.
- Clearly define ownership and operational roles.
- Involve all relevant parties in decision-making processes.

### Protect the farm’s legacy

- Determine the long-term vision for the farm.
- Decide whether the farm will remain in the family or be sold to a third party.
- Hold routine family meetings to discuss and align on the vision.
- Understand the risks associated with the transfer of the farm.



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### **Maintain family harmony**

- Be transparent and communicate openly.
- Address and resolve potential conflicts early.
- Ensure fairness in the distribution of assets and responsibilities.

### **Minimize tax liabilities**

- Consult with an accountant to understand tax implications.
- Use the lifetime capital gains exemption (LCGE) if eligible.
- Consider rollover opportunities for transfers to family members.
- Consult with legal and financial experts to structure ownership and take advantage of income-splitting opportunities.
- Consider implementing an estate freeze to limit future tax liability.

### **Consider life insurance**

- Purchase life insurance to provide liquidity to the estate.
- Develop a contingency plan for incapacity or death.
- Ensure non-farming heirs receive a fair inheritance without forcing a sale.
- Use life insurance to cover potential tax liabilities on death.

### **Review and adjust regularly**

- Regularly review the succession plan to ensure it remains relevant.
- Make adjustments as needed to reflect changes in life, tax rules, the family or business.

By following these steps, the farm owner can create a comprehensive and effective farm succession plan that ensures the farm's continuity, minimizes tax burdens and maintains family harmony.

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