

# GST/HST Info Sheet

## Sales of Farmland by Individuals

August 2004

This information sheet explains the application of the GST/HST to sales of farmland by individuals. It provides examples of how the GST/HST applies to common situations involving these sales. For GST/HST purposes, the term “individual(s)” does not include a partnership consisting of individuals. Therefore, the information in this information sheet does not apply to land held by a partnership although it may apply to land held by individuals in joint tenancy or tenancy in common.

In this document, “taxable” means subject to the GST/HST and “exempt” means not subject to the GST/HST.

Where a sale of farmland includes a residence or house, the sale is viewed as two separate sales:

- (i) the portion that includes the house plus the land that is necessary for the use and enjoyment of the house, and
- (ii) the remaining portion of land.

This Info Sheet applies to the sale of the remaining farmland.

Sales of used houses are usually exempt although there are circumstances when they may be taxable. For additional information on sales of used houses refer to GST/HST Info Sheet, *Sales by Individuals of Owner-Occupied Homes* and GST/HST Memorandum 19.2.1, *Residential Real Property – Sales*.

“Farmland” generally means land that is regularly used by a person for the purpose of gaining or producing income from a farming business carried on by the person. Farmland also includes any portion of vacant land (e.g., a bush area) that may not be used directly in a farming business. In addition, any fixtures on the farmland (e.g., a barn or a corral) form part of the farmland.

The sale of farmland by an individual is usually taxable although there are limited circumstances when it is exempt.

For example, the sale or transfer is exempt if a farmer sells or transfers ownership of farmland to an individual related to the farmer (or to a former spouse or former common-law partner) who, in turn, uses the land for their own personal use and enjoyment.

Also, if a farmer makes a sale of farmland as part of a sale of a farming business, the farmer and purchaser may, where certain conditions are met, jointly elect by completing form GST 44, *Election Concerning the Acquisition of a Business or Part of a Business* to have no GST/HST payable on the sale.

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La version française de ce document est intitulée *Ventes par des particuliers — terres agricoles*.

**Canada**

### Question

I am retiring from a farming business and selling my farmland to my neighbour (no relation) who may expand his farming business or who may simply use it for his personal use. Does the GST/HST apply to the sale?

### Answer

Yes, the GST/HST applies to the sale of your farmland to your neighbour regardless of whether he chooses to use it in his farming business or for his personal use. However, if you are selling your farmland as part of an ongoing farming business and not just selling assets, you and your neighbour may jointly elect to have no GST/HST payable on the sale by submitting form GST44, *Election Concerning the Acquisition of a Business or Part of a Business*.

### Question

I am retiring from a farm business and selling my farmland. My daughter and her husband want to buy the farmland. Would the GST/HST apply to the sale?

### Answer

The sale of your farmland to your daughter and her husband would be taxable if they were to continue the farm business. However, if they decide to use it for their own personal use instead of farming the land, GST/HST would not apply to the sale.

### Question

I own farmland and a farmhouse in the country and I am thinking of retiring from the farm business but will continue to live in my farmhouse. Will I owe the government any GST/HST because I am no longer farming but rather using my farmland only for my personal use?

### Answer

No, you are not required to remit any GST/HST in this circumstance provided the farmland had been used solely for your farming business and not for any other commercial activity.

### Question

I own a hobby farm on land that has never been subdivided or severed. I carry on limited farming activities on the farm without making, or expecting to make, any profit. I have decided to sell the farm and my house that is located on it. Does the GST/HST apply to the sale?

### Answer

No, the GST/HST does not apply when you sell the land on which your hobby farm is situated, since it was not used primarily in a business in which you had expected to make a profit. For additional information on determining when there is a reasonable expectation of profit refer to Appendix B of GST/HST Memorandum 19.5, *Land and Associated Real Property*. The sale of your house would also likely be exempt since, as mentioned previously, most sales of used houses are exempt.

### Question

I own a farming business and am registered for the GST/HST. For estate planning purposes, I intend to transfer the farmland to my spouse and myself as joint tenants for one dollar; however, the farming business will not change. My spouse will not become involved in the farming operation, nor will she earn or report any business income from it or register for GST/HST purposes. Does the GST/HST apply to the transfer of the farmland to the joint tenancy?

### Answer

No, the GST/HST does not apply to the transfer of your farmland to the joint tenancy.

There are certain circumstances where this may not be the case. For additional information on joint tenancy of farmland refer to GST/HST Memorandum 19.5, *Land and Associated Real Property*.

**GST/HST forms**

If you are selling taxable land, you are required to collect the GST/HST unless you are selling your taxable land to a GST/HST registrant. In this case, the registered purchaser is required to remit the tax directly. You are not required to collect the tax as the purchaser has to self-assess. The purchaser would remit the tax using either the GST 60, [GST/HST Return for Acquisition of Real Property](#) or, if using the land primarily in commercial activities, their regular GST/HST return.

If you are making a taxable sale of land to a non-registrant and that sale is your only commercial activity (and you are not in the business of selling land), you are required to remit the tax yourself using form GST62, *Goods and Services Tax/Harmonized Sales Tax (GST/HST) Return (Non-personalized)*. You are not required to register for GST/HST purposes.

If you are a GST/HST registrant, you would remit the tax using your regular personalized GST/HST return, GST34, *Goods and Services Tax/Harmonized Sales Tax (GST/HST) Return for Registrants*.

This Info Sheet does not replace the law found in *the Excise Tax Act* (the Act) and its Regulations. It is provided for your reference. As it may not completely address your particular operation, you may wish to refer to the Act or appropriate regulation, or contact any Canada Revenue Agency (CRA) GST/HST Rulings Centre for additional information. These centres are listed in the GST/HST Memorandum 1.2, [CRA GST/HST Rulings Centres](#). If you wish to make a technical enquiry on the GST/HST by telephone, please call the toll-free number 1-800-959-8287. A ruling should be requested for certainty in respect of any particular GST/HST matter.

If you are located in the province of Quebec and wish to make a technical enquiry or request a ruling related to the GST/HST, please contact the Ministère du Revenu du Québec (MRQ) by calling the toll-free number 1-800-567-4692.

All GST/HST publications are available on the Internet at the CRA site <http://www.cra-arc.gc.ca/tax/technical/gsthst-e.html>.

Reference in CRA publications is made to property and services taxable at 7% or 15% (the rate of the HST). The 15% HST applies to property and services provided in Nova Scotia, New Brunswick and Newfoundland and Labrador (the “participating provinces”).