

## When should I incorporate my family farm?

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There are a number of factors to consider when deciding whether to incorporate your family farm. There are both pros and cons of incorporating, and no two farms are alike. Personalized advice should be sought from both your lawyer and accountant prior to making this important decision. Before professional advice is sought, honest conversations need to be had among the farm team members to determine the vision for the farm's future, and how the family members see themselves fitting into this vision.

The cons of incorporation include the initial setup costs and the annual costs to maintain the corporation by filing annual returns with the Companies Office. Also, the assets you choose for your corporation to own will have varying tax implications. Corporations do not have the capital gains exemption that individual farmers do, so farmland sold by a corporation will incur significantly higher taxes.

Nonetheless, there are many advantages of incorporation. Corporations pay a lower tax rate on income than individuals do (if the income is less than the small business tax limit the tax rate is about 40% lower than top personal income tax rates). Income can be divided among active shareholders of the corporation in a strategic way, or the income may be retained in the farm corporation to invest in the farm's growth or to pay down debt.

Corporations are helpful succession planning tools, serving as a vehicle for holding assets, at fairly minimal costs, control of those assets can later be transferred to the next generation by a transfer of shares. Shareholders do have a capital gains exemption on share sales, and there would be no land titles fees to transfer shares as compared to land that was owned personally. Shareholders of corporations, to some extent, enjoy greater liability protection as compared to sole proprietors, as creditors can generally only make claim against the assets owned by the corporation and not personally-owned assets such as your home.

Do your research, think long term and seek personalized tax and legal advice to be sure to find a farm ownership structure that best suits your individual farm. Meighen Haddad LLP is a full-service law firm, being long standing members of the Canadian Association of Farm Advisors, and fully prepared to answer your farm planning questions.

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