



Ontario Federation of Agriculture

Ontario AgriCentre

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September 4, 2018

Hon. Ernie Hardeman
Minister of Agriculture, Food and Rural Affairs
Ontario Ministry of Agriculture, Food and Rural Affairs
77 Grenville Street
Toronto, Ontario
M7A 1B3

VIA email

Dear Minister Hardeman,

RE: The Farm Property Class Tax Rate Program

The Ontario Federation of Agriculture (OFA) would like to advise you of our commitment to the following changes to improve the Farm Property Class Tax Rate Program (FPCTRP) and ensure it works for all farmers. Specifically, OFA proposes changes with regard to:

1. Program information use and disclosure;
2. Eligibility of beneficial owners of farmland;
3. FBRN exemptions for Canadian farmers starting Ontario farming activities; and
4. Administrator-issued certificates as an FBRN alternative.

1. Program information use and disclosure

The FPCTRP was established in 1998. Program data contains a significant amount of information on Ontario farmland owners and farmers. Although O. Reg. 282/98 prescribes the collection of this information, the regulation is silent on the use and disclosure of this information. The privacy of farmland owners and tenants, as well as the proprietary nature of some of this information, must be respected. At the same time, enabling program and policy research purposes is a worthwhile goal and could help answer valuable research questions. OFA recommends O. Reg. 282/98 be amended to prescribe purposes, requirements, and restrictions on using and/or disclosing FPCTRP information by the Administrator.

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2. Eligibility of beneficial owners of farmland

OFA recommends amendments be made to address the FPCTRP eligibility issue facing some beneficial owners of farm property.

Subsection 8.(2)3 states that for farmland to be eligible for the Farm Property Class, the land must be owned by a Canadian citizen/permanent resident or a corporation with more than 50 percent of the voting shares are legally owned by individuals who are Canadian citizens/permanent residents.

As part of succession plans and tax planning purposes many lawyers, accountants and other advisors have been advising Ontario farmers to set up increasingly complex business structures. Some of these structures result in the farmland being held inside one corporation, which is owned by another corporation, which is owned by the farmer. In these situations, the farmer is the “beneficial owner” of the farmland and still controls all management and farming decisions, but since they are not the “legal” owner of the farmland they are being denied access to the FPCTRP.

By design, only Canadian farmers may benefit from the FPCTRP. However, some Canadian farmers are currently not able to participate in the program because shares of their landholding corporations are held by their farm operating corporations.

OFA suggests subsection 8.(2)3 could amended to add that in cases where farmland is owned by a Canadian corporation, which is owned by another (second) Canadian corporation, then more than 50 percent of the voting shares of the second corporation must be legally owned by individuals who are Canadian citizens/permanent residents.

3. FBRN exemptions for Canadian farmers starting Ontario farming activities

OFA recommends O. Reg. 282/98 be amended to make Canadian farming business that commence farming activities in Ontario eligible in their first year for a start-up exemption in cases where the farming business has generated annual gross income of the farming business equal to or more than the amount prescribed for the purposes of section 2 of the Farm Registration and Farm Organizations Funding Act, 1993 (FR&FOFA).

4. Administrator-issued certificates as an FBRN alternative

OFA recommends O. Reg. 282/98 be amended to give the Administrator the authority to issue an alternative certificate in lieu of having an FBRN, at the Administrator’s discretion. OFA supports the program eligibility requirement that applicants have a valid FBRN. OFA supports continuation of this requirement. However, alternatives should be put in place to ensure the performance of the FPCTRP is not impacted by FBRN program rules.

The Administrator might consider using discretion to address situations where a farmer failed to register the farm business in the previous year. The financial consequences for falling out of the farm tax class into the residential tax class are excessive and can be severe enough to threaten the viability of the farm operation. OFA would support the Administrator issuing an alternative certificate for this purpose if it:

- provided administrative ease for both the Administrator and the farm owner;
- allowed the Administrator to confirm the \$7,000 gross farm income threshold was met;
- required the applicant to support an accredited farm organization by holding a membership or making a financial contribution equal to the amount of the Farm Business Registration fee; and
- supported Ontario farmer compliance with the FBRN program by not issuing a certificate to a farmer who was issued a certificate in the previous year.

The Administrator currently has the discretion to consider a late program application up until December 31st of the tax year. However, in most cases, it is not just the application that is late, but the farmer has missed the August 31st deadline for a FBRN. Enabling the Administrator to grant a certificate to farmers who miss the FBRN deadline, due to extenuating circumstances would help farmers avoid a disastrous situation. OFA recommends a late application fee of at

least \$750 should be imposed discouraging the late application process from becoming the “main” process.

OFA appreciates the opportunity to provide our recommendations on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith Currie", enclosed in a thin black rectangular border.

Keith Currie,
President

c: Hon. Victor Fedeli, Minister of Finance
OFA board of directors.