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Assessment Act

CLASSIFICATION OF LAND AS A FARM REGULATION

[includes amendments up to B.C. Reg. 138/2012, September 1, 2012]

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PART 1 – INTERPRETATION

Definitions

1 (1) In this regulation:

"Act" means the *Assessment Act*;

"breeding product" means semen, an ovum or an embryo that is produced as part of livestock raising for sale for use in breeding livestock, other than poultry;

"December 31" means December 31 of the year preceding the taxation year for which the assessment roll is completed;

"earlier reporting period", in respect of a person, for a taxation year, means the person's income tax year ending in the calendar year that is 3 years before the taxation year;

"farm gate amount" means the total of the following amounts received by a producer:

(a) the amount from a sale of a qualifying agricultural product

(i) in the case of a qualifying agricultural product other than a product referred to in subparagraphs (ii) to (iv), supported by

(A) written evidence of the sale price, or

(B) in the absence of written evidence, the sale prices of comparable products sold locally,

(ii) in the case of livestock that has been raised, supported by written evidence of any of the following, as applicable:

(A) the live weight price of the livestock, not including the slaughter and cut and wrap costs;

(B) the live weight price applied to the weight gained by the livestock while being raised on the producer's farm operation;

(C) the difference between the purchase and sale prices of the livestock,

(iii) in the case of a horticultural crop that is purchased and transplanted or moved to the producer's farm operation for further growth, and is subsequently sold, supported by written evidence of the difference between the purchase and sale prices of the crop, or

(iv) in the case of a breeding product, supported by written evidence of the sale price;

(b) in the case of a qualifying agricultural product, other than a breeding product, that, because of loss or damage to the product, is

not sold, the amount of any indemnity payment, supported by written evidence of the payment;

(c) the amount of the fee for a horse stud service provided, supported by written evidence of the fee paid;

"farm operation" means land that comprises a farm operation under section 4 (4);

"farmer's dwelling" means a dwelling that is

(a) located on or adjacent to the farm, and

(b) occupied by a person who is actively involved in the day-to-day activities of that farm;

"horse rearing" means breeding or raising horses for sale;

"horse stud service" means a stud service provided for a fee by a producer as part of horse rearing;

"income tax year" has the same meaning as "taxation year" in the *Income Tax Act*;

"later reporting period", in respect of a person, for a taxation year, means the person's income tax year ending in the calendar year that is 2 years before the taxation year;

"lease" means a written agreement for the rental of all or part of one or more parcels of land;

"lessee", if the person renting land under a lease is a partnership, means the partnership;

"livestock" includes poultry;

"livestock raising" means

(a) breeding or raising domesticated animals

(i) for the production of food for human or animal consumption, including, without limitation, eggs or products of dairying,

(ii) for wool, hide, feather or fur production,

(iii) for use as breeding stock for the purposes listed in subparagraph (i) or (ii), or

(iv) for sale for any of the uses described in subparagraph (i), (ii) or (iii), or

(b) horse rearing;

"medicinal plant culture" means the cultivation or management of plant species, containing naturally occurring substances, that are used to restore, maintain or improve health;

"October 31" means October 31 in the year preceding the taxation year for which the assessment roll is prepared;

"packing house" means a facility used for the cleaning, sorting, grading, packing or storage of qualifying agricultural products;

"producer" means a person who

(a) is the owner or lessee of land, and

(b) uses the land for a qualifying agricultural use;

"qualifying agricultural product" means a product, including, without limitation, a breeding product, that is a product of a qualifying agricultural use;

"qualifying agricultural use" means a use of land for agricultural purposes as approved by the assessment authority, following consultation with the minister responsible for the administration of the *Ministry of Agriculture and Food Act*, and that

(a) is an agricultural use set out in section 1 of the Schedule to this regulation, and

(b) is not an excluded use set out in section 2 of the Schedule to this regulation;

"reporting period", in respect of a person, for a taxation year, means the earlier reporting period or the later reporting period of the person for the taxation year.

(2) Despite the definition of **"earlier reporting period"** in subsection (1), the earlier reporting period, in respect of a person, for the 2013 taxation year is the 12-month period ending October 31, 2010.

(3) Despite the definition of **"later reporting period"** in subsection (1), the later reporting period, in respect of a person, for the 2013 taxation year is,

(a) if the person is an individual, the 14-month period ending December 31, 2011, and

(b) if the person is a corporation or a partnership, the person's income tax year ending in 2011.

[en.. B.C. Reg. 138/2012, s. 2,3.]

PART 2 – CLASSIFICATION OF LAND AS A FARM

Application of this regulation

2 [Repealed, effective September 1, 2012 (B.C. Reg. 138/2012, s. 5]

Application for classification of land as a farm

3 (1) An application under section 23 (1) of the Act for classification of land as a farm must be delivered to the assessor on or before October 31 in the form prescribed by the assessment authority.

(2) When ownership changes, the assessor may require the new owner to submit an application.

[am. B.C. Reg. 292/2007, s. 7; 138/2012, s. 6.]

Classification of land as a farm

4 (1) Unless this Part provides otherwise, the assessor must classify as farm all or part of a parcel of land used for
(a) a qualifying agricultural use,
(b) a farmer's dwelling, or
(c) the training and boarding of horses when operated in conjunction with horse rearing.

(2) Land will only be classified as a farm where part of a parcel or parcels of land are
(a) necessary to the farm, and
(b) predominantly used for a qualifying agricultural use.

(2.1) Despite subsections (1) and (2), the assessor must classify land as a farm if the land is used for purposes that contribute to a qualifying agricultural use, including, without limitation, the following purposes:
(a) drainage;
(b) irrigation;
(c) a riparian area;
(d) a buffer;
(e) a headland;
(f) a windbreak;
(g) seasonal feeding or calving grounds;
(h) shelter for livestock;
(i) farm outbuildings;
(j) access to farm outbuildings or other land that is part of the farm operation.

(3) Despite subsections (1) and (2), the assessor must classify land as a farm if
(a) the land is in an agricultural land reserve,
(b) the land is part of a parcel, a portion of which is used for a qualifying agricultural use,
(c) the portion of the parcel being used for a qualifying agricultural use makes a reasonable contribution to a farm operation and meets the other requirements of this Part, and
(d) the land
(i) is used only for purposes ancillary to a farmer's dwelling, or
(ii) has no present use and is neither specifically zoned nor held for business, commercial or industrial purposes.

(3.1) Despite subsections (1) and (2), the assessor must classify land as a farm if the land is not in an agricultural land reserve and
(a) the land

(i) is used only for purposes ancillary to a farmer's dwelling, and

(ii) is part of a parcel, a portion of which is used for a qualifying agricultural use, and the portion used for a qualifying agricultural use makes a reasonable contribution to a farm operation and meets the other requirements of this Part, or

(b) the land has no present use, is neither specifically zoned nor held for business, commercial or industrial purposes and meets one of the following standards:

(i) the land

(A) has a highest and best use that is a use not better than that of a farm, and

(B) is part of a parcel, a portion of which is used for a qualifying agricultural use, and the portion used for a qualifying agricultural use makes a reasonable contribution to a farm operation and meets the other requirements of this Part;

(ii) the land is part of a parcel, a portion of which, comprising 50% or more of the total area of the parcel that is outside the agricultural land reserve, is used for a qualifying agricultural use or is used for purposes that contribute to a qualifying agricultural use within the meaning of subsection (2.1), and that portion is farmed by the owner and meets the other requirements of this Part;

(iii) the land is part of a parcel, a portion of which, comprising 25% or more of the total area of the parcel that is outside the agricultural land reserve, is used for a qualifying agricultural use, and that portion is farmed by the owner and meets the other requirements of this Part.

(4) A farm operation comprises all or part of a parcel or group of parcels of land

(a) contiguous or not,

(b) owned, or leased in accordance with section 7, and

(c) operated as an integrated unit.

(5) A farm operation comprised of parcels of land within different assessment areas will only be classified as a farm where the assessor is satisfied that each parcel is

(a) necessary to the farm, and

(b) predominantly used for a qualifying agricultural use.

[am. B.C. Reg. 343/96, s. 2; 438/97, s. 3; 561/2004, s. 2; 275/2009, s. 2; 138/2012, s. 7.]

Gross annual value requirements

5 (1) For the purposes of this section, the gross annual value for a person's reporting period in respect of a farm operation is the sum of the following amounts, as applicable:

(a) the farm gate amounts of the qualifying agricultural products produced on the farm operation during that reporting period;

(b) the farm gate amounts of the horse stud services provided by means of horses raised on the farm operation during that reporting period;

(c) if the reporting period is the later reporting period of the person for a taxation year, the total of the unrealized values for that reporting period under subsection (2) in respect of the qualifying agricultural products to which that subsection relates.

(2) The unrealized value referred to in subsection (1) (c)

(a) for qualifying agricultural products, other than those produced from livestock raising and breeding products, if the qualifying agricultural products

(i) are produced on the farm operation during the later reporting period of the person, and

(ii) are not sold during that reporting period, but are available and offered for sale or held for sale during the 12-month period following that reporting period,

is the monetary worth of the qualifying agricultural products, as supported by the sale prices of comparable products sold locally, and

(b) in relation to livestock that

(i) is raised on the farm operation, during the later reporting period of the person, for food for human or animal consumption, and

(ii) is not sold during that reporting period, but is available and offered for sale or held for sale as food during the 12-month period following that reporting period,

is determined by one of the following methods:

(iii) the increase in value attributable to weight gain of livestock raised for sale;

(iv) the estimated value of livestock born and raised for sale based on the current farm gate amount.

(3) The assessor must not classify any part or parcel of land of a farm operation as a farm for a taxation year unless all of the applicable

requirements of subsections (4) to (8) are met with respect to the farm operation.

(4) To be classified as a farm for a taxation year, the gross annual value in respect of the farm operation for at least one of the person's reporting periods for the taxation year must be at least

(a) $2 500, if the total area of the farm operation is between 0.8 ha and 4 ha,

(b) $2 500 plus 5% of the actual value of the farm operation for farm purposes in excess of 4 ha, if the total area of the farm operation is greater than 4 ha,

(c) $10 000, if the total area of the farm operation is less than 0.8 ha, and

(d) despite paragraph (c), $2 500, if the total area of the farm operation has been reduced to less than 0.8 ha as a result of expropriation, but only if the farm operation remains in the same ownership.

(5) Despite subsection (4) (c), if land was classified as a farm in 1995, the applicable requirement in respect of the farm operation under subsection (4) is deemed to be met in respect of the farm operation for a reporting period of the owner for a taxation year if

(a) the total area of the farm operation is less than 0.8 ha,

(b) the farm operation remains in the same ownership,

(c) the assessor is satisfied that the owner earns the greater part of its livelihood for the reporting period from either or both of the following:

(i) the sale of qualifying agricultural products produced on the farm operation;

(ii) fees for horse stud services provided by the owner, by means of horses raised on the farm operation, and

(d) the farm operation meets the other requirements of this Part.

(6) Despite subsections (4) and (5) of this section, for land to be classified as a farm under section 4 (3.1) (b) (iii), the gross annual value in respect of the farm operation for at least one of the owner's reporting periods for the taxation year must be at least $10 000.

(7) For the purposes of subsections (5) and (6), a farm operation does not include parcels and parts of parcels of land that are leased.

(8) Despite subsections (4) and (10) of this section, the assessor must classify all or part of a parcel of land of a farm operation as a farm for a taxation year in respect of which an application is submitted by

(a) a person under section 3 (1) in respect of land not classified as a farm in the year in which the application is made, or

(b) a new owner under section 3 (2) in respect of the farm operation,

if, in the taxation year in which the application is submitted,

(c) the gross annual value in respect of the farm operation is at least the applicable amount set out in subsection (4) (a), (b) or (c) of this section, and

(d) production of qualifying agricultural products from the farm operation occurs and a sale of qualifying agricultural products from the farm operation is made.

(9) For the purposes of subsection (8), the gross annual value is determined on the basis of a taxation year and not on the basis of the person's reporting period.

(10) For a farm operation to be classified as a farm for a taxation year, the following requirements must be met:

(a) subject to section 6, qualifying agricultural products from the farm operation must be sold during both of the person's reporting periods for the taxation year;

(b) if the farm operation is used for horse rearing, a horse reared on the farm operation must be sold in at least one of the person's reporting periods for the taxation year.

(11) This section applies despite section 4, but is subject to section 8.

[en. B.C. Reg. 138/2012, s. 8.]

Exception to requirement for sale of qualifying agricultural products

6 The requirement in section 5 (10) (a) is met in respect of a reporting period of a person for the taxation year referred to in that provision if the qualifying agricultural products produced from the farm operation referred to in that provision

(a) are not sold during that reporting period, but are produced in sufficient quantities that the applicable requirements of section 5 for that taxation year would have been met if the qualifying agricultural products had been sold during that reporting period, and

(b) are either

(i) grains, oilseeds, forage seeds, turf seeds or pulse seeds, and the assessor is satisfied that the grains or seeds will be available for sale within the 12-month period immediately following the end of that reporting period, or

(ii) any other qualifying agricultural product that is grown and harvested for processing for sale or to be used in the preparation of manufactured derivatives to be made available

for sale within the 12-month period immediately following that reporting period.

[en. B.C. Reg. 138/2012, s. 8.]

Exceptional circumstances

6.1 (1) In exceptional circumstances, the Lieutenant Governor in Council may waive, by order, any of the sales or production requirements of this Part for the period and on any terms and conditions specified in the order.

(2) In this section, **"exceptional circumstances"** includes natural disasters and any other circumstances the Lieutenant Governor in Council is satisfied are of such a severity as to prevent or make impracticable compliance with certain sales or production requirements of this Part.

[en. B.C. Reg. 561/2004, s. 4; am. B.C. Reg. 138/2012, s. 9.]

Classification of leased land

7 (1) In the case of leased land, a copy of the lease document must be submitted to the assessor on or before October 31 in order for the land to be classified as a farm.

(2) The lease document must contain the names and signatures of the lessee and lessor, the legal or other well defined description of the land being leased, the commencement date, the signing date, the duration of the lease, the lease area, the intended use of the leased land and the consideration for the lease.

(3) To be classified as a farm the leased land must

(a) make a reasonable contribution to the farm operation, and

(b) be 0.8 ha or greater except if

(i) the land is in an agricultural land reserve, and

(ii) despite section 4 (3), the land is used for a qualifying agricultural use.

(4) Despite section 5 and subsection (1) of this section, in the case of leases of Crown land issued after October 31, the assessor must classify all or part of the land as a farm if

(a) the application form referred to in section 3 is delivered to the assessor on or before December 31, and

(b) the assessor is satisfied that the farm meets the other requirements of this Part.

[am. B.C. Reg. 561/2004, s. 5; 275/2009, s. 4; 138/2012, ss. 9,10,11.]

Classification of land under development as a farm

8 (1) The assessor must, for a taxation year, classify all or part of a parcel of land of a farm operation as a farm if the assessor is satisfied that, on or before October 31,

(a) the land is being developed for a qualifying agricultural use,

(b) the land does not meet the applicable requirements of section 5, and

(c) the requirements in subsections (2) to (7) of this section that relate to the applicable qualifying agricultural products are met.

(2) The requirement for qualifying agricultural products that require less than one year after planting before harvesting occurs is that there is a sufficient area prepared and planted to meet the requirements of this Part on or before October 31 of the following year.

(3) The requirement for qualifying agricultural products that require one to 6 years after planting before harvesting occurs is that there is a sufficient area prepared and planted to meet the requirements of this Part when harvesting occurs.

(4) The requirements for qualifying agricultural products that require 7 to 12 years after planting before harvesting occurs are as follows:

(a) there is a sufficient area prepared and planted to meet the requirements of this Part when harvesting occurs;

(b) there is a reasonable expectation of profit from farming.

(5) The requirements for livestock, greenhouse or mushroom operations that require one year to establish before sales occur are as follows:

(a) the buildings, structures and fencing are completed as required to meet the applicable requirements of section 5 for the farm operation;

(b) the required livestock are purchased and present;

(c) the farm operation will meet the requirements of this Part on or before October 31 of the following year.

(6) The requirements for aquaculture operations that require 2 to 5 years to establish before harvesting occurs are as follows:

(a) the buildings and structures are completed as required to meet the applicable requirements of section 5 for the farm operation;

(b) the land is seeded, planted or stocked as required to meet the applicable requirements of section 5 when harvesting occurs;

(c) the farm operation will meet the requirements of this Part when harvesting occurs.

(7) It is an additional requirement for qualifying agricultural products described in subsections (2), (3) and (4) of this section that the assessor has approved a development plan and site diagram that

(a) is submitted with the application under section 3 by the owner or lessee of the land, and

(b) includes location and details of the crop to be planted, area, date of planting, expected yield, selling price and date of harvest.

(8) Despite subsections (2), (3) and (4), the requirement in subsection (2), (3) or (4) (a), as applicable, that a sufficient area of land must be planted on or before October 31 is deemed to be met in respect of the taxation year referred to in subsection (1) if

(a) the applicable area of land is prepared for planting on or before October 31,

(b) the development plan approved under subsection (7) shows that the crop will be planted by June 21 of that taxation year, and

(c) the assessor is satisfied that a viable farm will be established in accordance with the requirements for that crop based on sound agricultural practices.

(9) Despite section 5, the assessor must classify all or part of a parcel of land as a farm,

(a) for a taxation year immediately following the taxation year in which the production of a qualifying agricultural product first occurs and a sale of a qualifying agricultural product is made, if

(i) the land was classified as a farm under subsection (1) of this section for the immediately preceding taxation year, and

(ii) the requirements in section 5 (4) and (10) are met in the taxation year in which production first occurs, and

(b) for the immediately following taxation year, if

(i) the land was classified as a farm under paragraph (a) for the immediately preceding taxation year, and

(ii) the requirements in section 5 (4) and (10) are met in the taxation year immediately following the taxation year in which production first occurs.

(10) For the purposes of subsection (9), the gross annual value is determined on the basis of a taxation year and not on the basis of the person's reporting period.

[en. B.C. Reg. 138/2012, s. 12.]

Packing house

9 (1) This section applies despite other provisions of this Part.

(2) Land, but not improvements, used for a packing house as part of a farm operation will be classified as a farm if
  (a) any authority having jurisdiction over the use of that land has regulated the use of that land to permit the growing and raising of crops, and
  (b) more than 50% of the qualifying agricultural products that are cleaned, sorted, graded, packed or stored in the packing house are grown or raised on that farm operation.

(3) *Repealed* B.C. Reg. 411/95, s. 9 (4).]

(4) *Spent*.

[en. B.C. Reg. 438/97, s. 4; am. 1999-39-78; B.C. Reg. 411/95, s. 9(4); 138/2012, ss. 10,13,14.]

Reporting requirements

10 (1) Before or after the completion of any assessment roll the assessor may require the following information:
  (a) reporting from the owner or lessee to ensure that the farm continues to meet the requirements of this Part;
  (b) additional information from the owner or lessee, including receipts or copies of lease documentation, in support of farm classification.

(2) Notice to provide information must be sent by mail or served personally by the assessor.

(3) The owner or lessee must provide the information to the assessor within 21 days from the receipt of the notice or a longer period as specified in the notice.

[am. B.C. Reg. 138/2012, s. 13.]

Declassification

11 [Repealed, effective October 18, 2007 (B.C. Reg. 310/2007, s. 2)].

PART 3 – RETIRED FARMERS – LAND USED FOR A DWELLING

Regulations under section 23 (3.2) of the Act

12 (1) For the purposes of paragraph (a) of the definition of "retired farmer" in section 23 (0.1) of the Act, the prescribed period or periods of time are a period or periods, whether or not consecutive, that total at least 20 years.

(2) For the purposes of section 23 (3.1) (a) (ii) of the Act, the prescribed age is 65 years.

(3) For the purposes of section 23 (3.1) (b) of the Act, it is a requirement that the owner was the spouse of the retired farmer when the retired farmer retired.

(4) For the purposes of section 23 (3.1) (d) (iv) of the Act, it is a requirement that, when the retired farmer retired, the retired farmer was actively involved in the day-to-day activities on land

(a) that was classified under section 23 (2) of the Act as a farm for the taxation year in which the retired farmer retired, and

(b) that is all or part of

(i) the parcel that includes the land to which the owner's application relates, or

(ii) a parcel that is adjacent to the parcel that includes the land to which the owner's application relates.

(5) For the purposes of section 23 (3.1) (h) of the Act, it is a requirement that an application has not been made by the spouse of the owner under section 23 (3.1) of the Act for the same taxation year in respect of land other than the land to which the owner's application relates.

[en. B.C. Reg. 138/2012, s. 15.]

Application for the 2013 taxation year

13 (1) The time for submitting the application to the assessor under section 23 (3.1) (g) of the Act for the 2013 taxation year is extended to March 15, 2013.

(2) This section is repealed on April 1, 2013.

[en. B.C. Reg. 138/2012, s. 15.]

SCHEDULE

(section 1(1))

[en. B.C. Reg. 138/2012, s. 16.]

QUALIFYING AGRICULTURAL USES

Agricultural uses

1 The following are agricultural uses for the purposes of paragraph (a) of the definition of "qualifying agricultural use" in section 1 (1):

- (a) apiculture;
- (b) aquaculture;
- (c) Christmas tree culture (plantation and cultured native stand);
- (d) management of the following trees, for the production of sap or syrup:
  - (i) trees botanically known as Betula species and commonly known as birch, or
  - (ii) trees botanically known as Acer species and commonly known as maple;
- (e) floriculture;
- (f) forage production;
- (g) forest seedling and seed production;
- (h) fruit and vegetable production;
- (i) grain and oilseed production;
- (j) herb production;
- (k) horticulture;
- (l) intense cultivation of plantations of
  - (i) trees botanically known as Populus species and commonly known as poplar, or
  - (ii) trees botanically known as Salix species and commonly known as willow;
- (m) livestock raising;
- (n) medicinal plant culture;
- (o) raising insects for biological pest control;
- (p) raising crops for food for human or animal consumption;
- (q) seed production;
- (r) turf production.

Excluded uses

2 The following are excluded uses for the purposes of paragraph (b) of the definition of "qualifying agricultural use" in section 1 (1):

(a) the production of manufactured derivatives from agricultural raw materials;

(b) the production of qualifying agricultural products for domestic consumption on the farm;

(c) the production of agricultural by-products other than breeding products;

(d) agricultural services other than horse stud services;

(e) the breeding and raising of pets other than horses.

[Provisions of the *Assessment Act*, RSBC 1996, c. 20, relevant to the enactment of this regulation: section 23]

NOTE: *This regulation replaces B.C. Reg. 298/85.*