

BEQUESTS OF FARM PROPERTY

Special Rules apply to farm property passing to a beneficiary who is a child, grandchild or great-grandchild of a deceased person. For transfers made after 1983, the definition of a "child" of a taxpayer includes a person who was, as any time before he attained the age of 19 years, wholly dependent on the taxpayer and under the taxpayer's custody and control.

The rules apply if all the following conditions exist:

- (a) the farm must be in Canada;
- (b) the beneficiary must have been resident in Canada immediately before the death of the person;
- (c) the property must be land or depreciable property;
- (d) before the taxpayer's death, the property in question was used principally in a farming business in which the taxpayer, the taxpayer's spouse or common-law partner or any of the taxpayer's children were actively engaged on a regular and continuous basis; and
- (e) the property must vest indefeasibly in the beneficiary within 36 months after the death of the person. (The vesting period can be extended where the legal representative applies in writing to the Minister within the 36-month period and the Minister considers that a longer period is reasonable in the circumstances.)

Property leased by a taxpayer to his family farm corporation or to a family farm corporation or partnership of his spouse or common-law partner or child qualifies for the tax-free transfer if the property is used in the business of farming by any such family farm corporation or partnership at the time of the transfer.