

Appendix 1: Questions to ask Qualified Professionals when transferring a Woodlot Licence

1. General questions to ask when contemplating a transfer:

- Was your Woodlot Licence awarded under Section 47.3 of the Forest Act? (If no, your woodlot is transferable. If yes, the disposition could still proceed with the approval of the Lieutenant Governor in Council or as permitted by the regulations. Contact your local MFLNRORD office for more information.)
- How do you consider and deal with issues such as: Family and Business obligations, Tenure transfer process, existing and future Licence obligations, Schedule A private land ownership, Taxation issues, Legislation requirements and ongoing financial and business management?
- Have you considered removing your Private (Schedule A) Land before proceeding with a transfer?
- Do you have an Estate Plan?
- Do you have a Succession Plan?
 - Who is taking over the woodlot?
 - Is control of the woodlot going to be shared?
 - If not shared (i.e. is this an immediate transition or is the Holder wanting to keep some control) then what are conditions of transfer?

2. Forestry disposition questions to ask when proceeding with a transfer:

- Have you and the intended recipient notified the MFLNRORD that you are considering a transfer?
- Have you ensured that the transfer of your Woodlot Licence meets the following requirements?
 - The Woodlot Licence holder may dispose of the agreement to another person if the Minister, in writing, approves the disposition.
 - All money required to be paid to the government that is due and payable to the government in respect of the Woodlot Licence has been paid or is the subject of an arrangement for payment approved by the Minister of Finance.
 - The intended recipient is a company, person, or First Nation that, under section 44 of the *Forest Act*, is eligible to have a Woodlot Licence.
 - The Private land, if any, in the Woodlot Licence area remains subject to the Woodlot Licence after the transfer concludes for a minimum of 10 consecutive years. This only pertains if the holder does NOT remove Private land before sale.
- Have you discussed with the new licensee any existing or future Forest Tenure obligations that may include but are not limited to: road maintenance, silviculture and other commitments in the Management Plan or any clauses in Schedule C of the

Woodlot Licence document that the new Licensee will assume as these could affect the potential for a successful transfer?

3. Legislation questions to ask when proceeding with a transfer:

- Have you considered how you will transfer the Woodlot Licence (i.e. transfer the shares of the corporation or transfer the Woodlot Licence tenure)?
- Is the disposition of the Woodlot Licence exempt? i.e. is this a transfer to a trustee in bankruptcy or from the estate of a Deceased Holder to the Deceased Holder's Personal Representative?
- Are there Road Permits associated with the Woodlot Licence?
- Has the Woodlot Licence been suspended in whole or in part?
- Does the Intended Recipient qualify to hold a Woodlot Licence?
- Is there Private land in the Woodlot Licence? If so, will the Private Land be leased, transferred, substituted, or removed from the Woodlot Licence?
- If transferring shares – has a change of control occurred?
- Have you completed the transfer in the time set out by the Minister?

4. Taxation questions to ask when proceeding with a transfer:

- How do I minimize tax implications?
- What is the cost base of the asset(s) intended to be transferred?
- If multiple assets are included i.e. land, timber, licence etc., what is the allocation of cost between the assets?
- If shares, is the ownership, operations and corporation structured to access Lifetime Capital Gains Exemption (LCGE)
- Could the operations of the woodlot allow it to qualify as farm property to increase the amount of the LCGE, flexibility in assets to be transferred, and potential for intergenerational rollover?

5. Private (Schedule A) land issues to consider when proceeding with a transfer:

- Have you decided how to deal with your Private (Schedule A) land?
- Do you know that a lease or assignment of management rights concerning Private (Schedule A) land must contain the following key points: be for a term identical to the term of the Woodlot Licence; be replaceable at the same time that the Woodlot Licence is replaceable; and provide full management authority for all management rights associated with operating the Woodlot Licence? (NOTE: This includes all aspects of planning, harvesting, silviculture and other management activities).
- Have you considered the right for the new woodlot licensee to apply for, hold, use and transfer a timber mark over the Private land for the purposes of harvesting and transporting timber?