

Sale of farmland - farm business v farmed continuously -

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Primary Production Industry Partnership

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Question

1. Is the sale of farm land GST-free if a farming business has been carried on for 5 years but the land has not been farmed continuously during the five years preceding the sale?

Answer

2. When farming has been carried on for 5 years without any break the requirements of section 38-480 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) will be met. Where a temporary cessation in daily activities occurs, for example, due to poor weather, or holidays are taken, or land is left fallow etc, this does not mean the farming business has ceased altogether. Accordingly, we can conclude that the intention of the legislation would not be to prevent such farm land from being sold GST-free provided paragraph 38-480(b) of the GST Act is also satisfied.

3. However, if a conscious decision to cease farming is implemented, then we may be able to conclude that there has been a break and the 5 year requirement would not be satisfied.

4. Whether there has been a break in the carrying on of a farming business sufficient to preclude the operation of section 38-480 of the GST Act, in the five years preceding sale will, in each case, be a question of fact.