

# JOINT FARMERS OR FARMING JOINTLY

The Use of Joint Ventures in Farm Succession  
Planning

Aaron Haight, MLT Aikins LLP



Law Society  
of Saskatchewan



# AGENDA

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- What is a joint venture (and what is it not)?
- Potential tax-related benefits of joint ventures
- Using a joint venture in farm planning
  - Intergenerational succession
  - Expansion of farming operations
- Q&A



# WHAT IS A JOINT VENTURE?

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- “Joint venture” not defined and rarely used in the *Income Tax Act*
- No defined legal structure
- Factors identified in *Central Mortgage & Housing Corp. v Graham*:
  - Contribution of money, property, effort, knowledge, skill, or other asset
  - Joint property interest in the subject matter of the venture
  - Right of mutual control or management of the venture
  - Expectation of profit
  - Participation in gross profits
  - Limited as to purpose and/or duration





# WHAT IS A PARTNERSHIP?

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- Joint ventures should be carefully structured to avoid indicia of partnership
- Defined in provincial legislation with three characteristics:
  1. A business
  2. Carried on in common
  3. A view to profit
- Case-by-case assessment



# COMPARISON OF KEY ELEMENTS

	<b>Joint Venture</b>	<b>Partnership</b>
Nature of undertaking	Limited scope	Single business
Share of income	Gross revenue	Net profits
Term	Limited	Indefinite
Business property	Individually owned	Jointly owned
Nature of interest	Contractual	Transferable
Agency	No	Yes
Competition	No restrictions	Consent required
Liability	Several only	Joint and several





# TAX TREATMENT

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- Taxation of income
  - **Partnership:** calculated at partnership level and allocated to partners
  - **Joint Venture:** not recognized as a taxable entity so individual reporting
- GST
  - **Partnership:** independently registered to collect and remit GST
  - **Joint Venture:** each participant individually responsible unless election is filed

# TAX BENEFITS OF JOINT VENTURES

- Profits taxed as active business income
- Two advantages for Canadian-controlled private corporations:
  - Avoid specified partnership income rules
  - Maintain active business income characterization





# SCENARIO A: FAMILY SUCCESSION

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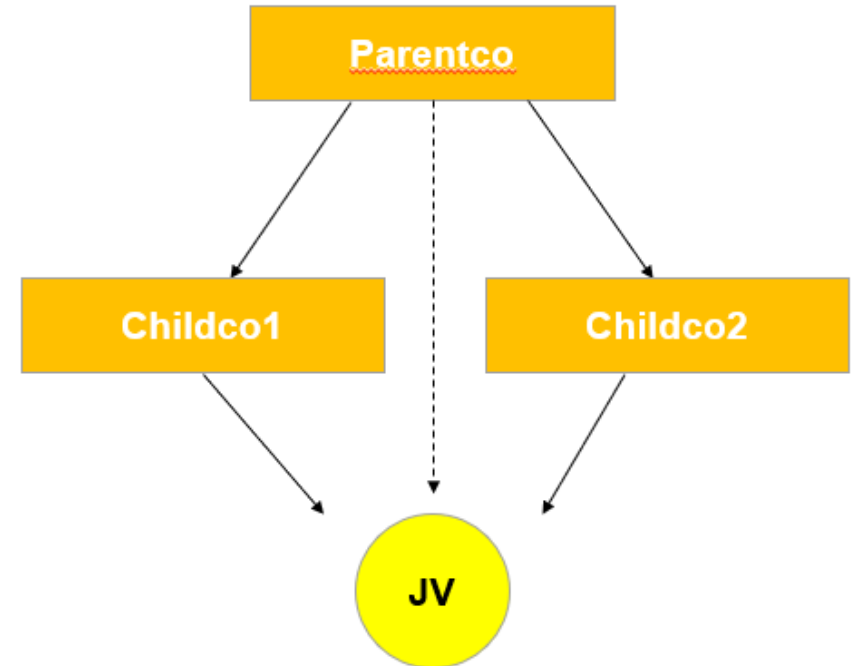
- Parents are nearing retirement and wish to pass the farm on to two of their children
- Parents are willing to transfer operating assets to children but wish to retain ownership of farmland
- Parents will participate in management for a period of time
- For future flexibility, the children wish to use their own corporations to carry on business





# SCENARIO A: FAMILY SUCCESSION

- Parentco retains farmland; operating assets are transferred to Childco1 and Childco2
- Parentco, Childco1 and Childco2 each receive joint venture revenue
- First \$500,000 in each corporation taxed at low rates
- Parentco's JV percentage may be reviewed annually



# SCENARIO B: FARM EXPANSION



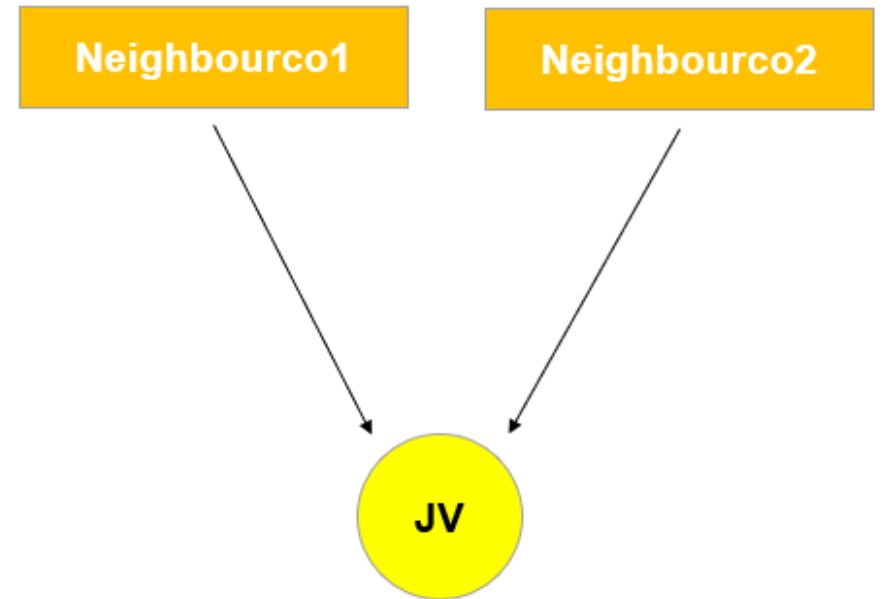
- Neighbour 1 looking to wind-down farming activities
- Neighbour 1 owns farmland and depreciable property
- Neighbour 2 desires to purchase or rent farmland from Neighbour 1
- An immediate sale may not be ideal for either party



# SCENARIO B: FARM EXPANSION

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- Neighbourco1 involved in management and bears some risk
- Neighbourco2 able to expand operations
- Gradual transfer of assets over time reduces tax liability
- Arrangement can be re-assessed annually






# PRACTICAL CONSIDERATIONS

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- Is there a written agreement that expressly disclaims partnership?
- How are the respective percentages determined?
- What types of costs will be shared among the joint venturers?
- Are all participants involved in management and do all participants bear some risk?
- Will there be any co-owned property? Are other agreements required?
- What is the termination process?





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# Q&A





# THANK YOU

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Aaron Haight

T: (306) 956.2180

[ahaight@mltaikins.com](mailto:ahaight@mltaikins.com)

