



*Egg & Pullet Farmers' Workshop  
November 27 & 28, 2019  
Marriott Toronto Airport Hotel, Grand Ballroom*

## **Double Wills Explanation and Rationale**

It has come to our attention from EFO's legal counsel that egg and pullet farmers should review their Wills and estate plans with their solicitors to ensure that they are not triggering the application of Ontario's 1.5% Estate Administration Tax to the value of their egg or pullet quota on their death.

Whether quota is held personally or through a corporation or partnership it is possible in Ontario to structure Wills in such a way that the tax can be legally avoided.

Two wills are signed. The first is called the Primary Will and covers all assets owned by the deceased which require a third party consent to transfer. The registry laws require "probate" or what is called a Certificate of Appointment to be granted by a Court before real property can pass through an estate. Banks and financial institutions also require this form of formal approval of the Will before they will allow assets under their control to pass through an estate.

The Secondary Will, on the other hand, covers any assets which the estate trustees believe can be legally transferred through an estate without the necessity of Court approval as evidenced by a Certificate of Appointment of Estate Trustee.

Given the existing wording of the EFO Egg and Pullet Quota policies, it is possible for an ownership change caused by the death of a quota holder or where a quota holder is a shareholder or partner in the farm that holds the quota to be approved by EFO without the necessity of obtaining this Court approval.

Ontario's Estate Administration Tax of approximately 1.5% applies to all assets passing through a Will on an Application for Appointment of an Estate Trustee. This tax is not charged on any assets passing through a Secondary Will where no Application for Appointment of Estate Trustee is being obtained.

Given the significant value of quotas it may be well worth the cost of having double Wills as part of an estate plan so that the quota is not subject to the 1.5% tax levy.