Transferring the Farm Series #9 8/2017

Preparing to Meet With Your Transition and Estate Planning Team

Agricultural Business Management

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Introduction:

Your business transition and personal estate plan is your road map into the future. The process necessitates discussion between involved individuals resulting in a prioritized list of goals for your business, your family, your retirement and yourself as an individual. It clears up questions and potential misunderstandings between family members. It is the document you take to your transition and estate planning team to begin the process. Without this list, your team cannot begin their work. They need to know what you want to have happen to your assets and more importantly what you do not want to have happen to your assets.

The entire process must be based upon your individual, family, business/retirement goals. *See Transferring the Farm Series #1-Preparing to Transfer the Farm Business.*

Who Should Be Involved In Preparation Process?

All exiting and entering farm business parties must be involved in the preparation process. This includes spouses as well as in-laws. Spouses and in-laws, who are informed about the process and actively involved in the process, are more supportive than if not involved in the process. They also bring a unique perspective to the process and often ask the kinds of questions needed to be addressed to accomplish a fulfilling end result.

There are a number of steps involved as well as a whole host of questions you will need to address before your preparation to meet with your transition and estate planning team is complete. The key here is to focus on completing your prioritized goals list for your business in addition to your goals for your family, yourself and your retirement. Do not get mired down in all the details of all the complex items around business transition and estate planning: which business entity should I have, do I need a trust or a Will, how does capital gains tax work and how do I avoid the tax, etc. Thinking about that detail will frustrate you, confuse you and ultimately keep you from moving forward with your business transition and estate planning. Again, Step 1 is to focus only on completing your prioritized list of goals. Step 2 is to call the attorney and make an appointment. It is as simple as that.

To aid you in your preparation, here are some items to think about which may help you clarify where you want to go and also help clarify your preparation process. These items can be used to develop your goals list as well.

- How will the land be rented? What are rental rates and payment dates? How will rental rates be determined in the future?
- How will the machinery be transferred-gift, sale, lease with piecemeal buyout or exchange of labor for machine use? Who will pay the insurance, fuel, major and minor repairs? When will the machinery be transferred?
- How will livestock be transferred-lump sum sale, gradual sale, shared income for a few years, or livestock share lease?
- How will buildings and the house be handled? Use rent free? If not, what rental rate? Is it included with land rent? What arrangements are made for the transfer, sale, gift, or tax free exchange of real estate? Who will pay for insurance, real estate taxes, repairs, and utilities? Does the plan make maximum use of the Minnesota Homestead Credit?
- Are arrangements made to improve the security of the entering farmer-life insurance on parents, a buy-out provision giving the option to buy assets later, parents' living trust or Will to bind other heirs to sale terms?
- Will land be sold? If so, when and how will price and terms be determined? Would a buy-sell agreement be in order?
- Have adequate and acceptable housing arrangements been made for the long run? Is everyone happy with those arrangements?
- If parents will be working for their children, what is the method and rate of compensation? How much

will parents be expected to or want to work on the farm after retirement?

- If families will be working together through several transition years, who will be responsible for what segments of the business? Who will be responsible for and manage the livestock, crops, machinery, marketing, farm records, employees, etc.? How will work be divided? Are hours and vacation times agreeable to all?
- What are the arrangements for transition of management and who is responsible for overall decision making? In other words, who has the final word and when does that right transition to the next generation?
- How will the debt be handled? Does the entering farmer assume the existing debt, borrow elsewhere and pay off old debt? How will this impact existing farmer's tax situation?

When Should You Begin The Preparation Process?

The sooner a plan is established and implemented, the more confident the participants will feel. Once you decide to transfer the farm, the planning and preparation process should begin.

The process and resulting plan should provide for the complete transition of the business. Depending upon your situation, this may have to cover a period of 10 years or more.

As your goals, business, or family circumstances change, the transition and estate plan should be reviewed and revised when necessary or appropriate. Also, the exiting generation does not have to stop farming the minute they sign off on the plan.

Put It In Writing!

Put your goals and other thoughts in writing. If not written down, details are easily forgotten and often misconstrued as time goes by.

After a first draft, all farming parties should review the goals list and any other thoughts in the list. As soon as the document has agreement from everyone involved, a final list can be completed. As soon as the list is agreed upon, you are ready to meet with your transition and estate planning team.

Example Goals List (parent's perspective):

- We want to retire from farming in 5 years. Until then we want to continue to farm with our farming heir.
- We want to keep the farm land in our name until death.
- When we retire, we want to rent the land to our farming heir at a discounted rate.
- When we retire, we want our farming heir to purchase and move onto the farm site.
- After retirement, dad is willing to supply labor for the farm but our farming heir should be able to complete all farming tasks without having to rely on dad.
- Because of liability issues, we want to explore the possibility of forming a business entity.
- Beginning this year, we want to gift to our farming heir and spouse $56,000 worth of equipment value each year for five years, with the farming heir purchasing any equipment not owned after that time.
- Beginning this year, we want to sell livestock, grain and feed inventory over a three year period with the farming heir buying what they need and can afford.
- We want to minimize any estate, capital gain and other tax obligations whenever possible.
- We want to avoid the probate process.
- We want to explore the possibility of purchasing long-term health care insurance.
- We want to retire to a house in town.
- Upon our deaths, we want the farming heir to get the farm land.
- Upon our deaths, we want our non-farm heirs to receive our house in town, our investments and our life insurance.
- Household and family heirlooms will be distributed through a private family auction with heirs using Monopoly money to bid on items.
- We want to include a plan for us and our family members in the event either or both of us become disabled.
- Upon the second death, we want to bequest $25,000 to our church and $5,000 each to our grandchildren.

Once the final version is complete, all farming parties should review it and determine if it is consistent with your goals. If the final plan it is what you want, have all farming parties sign off on the document. Consider giving them a copy.

Once the plan is complete, parents might want to consider having a family meeting where they share their plan. Share what you did and your reasons for doing it. This may prevent family disagreements after the death of the parents. If the farm business changes over time or the environment in which the farm business operates changes in the future, it is crucial that all parties review the transition plan. If necessary, the plan can be modified to reflect the current situation.

Caution: This publication is offered as educational information. It does not offer legal advice. If you have questions on this information, contact an attorney.