



## Succession Planning and the Family Farm

By: Todd N. Hallock, J.D. and Sara Nelson Hallock, J.D.



“Those who labour in the earth are the chosen people of God, if ever he had a chosen people, whose breasts he has made his peculiar deposit for substantial and genuine virtue.” - *Thomas Jefferson*

The farmer as virtuous is well-established in our national conscious and reverence for the family farm sets planning for it apart from other types of family owned businesses. Even children who do not plan to actively participate in farming have a deep emotional attachment to the farm. According to the USDA, approximately 96 percent of the 2.2 million farms are classified as “family farms.” The average age of a farm operator is 57 and the fastest growing segment is those over age 65. This aging trend suggests the increased need for planning as farmers reach an age when transition must occur because of death, disability or retirement.

Often when the time comes for transition the farm owner will have two choices: (1) maintain the operation while transitioning ownership to a son or daughter; or (2) shut down the farming operation and sell or lease the land. The preference is usually to transition ownership to a son or daughter, but this option poses many challenges both financial and emotional. These challenges can often lead the farm family to ignore the issue in hopes that it will cure itself. Of course, ignoring the need for a plan will not solve the problem anymore than turning up the car radio will fix that noise in the engine. Whether from retirement, disability or death, the time for transition will come. The following steps can increase the odds of a successful transition of the family farm to the next generation:

**Identify and Train Potential Successor(s).** Identify potential successors early and determine what they will need to know and do to qualify as a successor. Do you want the successor to complete his/her education in a particular area? Do you want the successor to gain experience working outside of the family farm operation? The plan should

consider what skills the successor will need to develop.

**Plan for All Transition Scenarios.** As stated above, transition usually results from one of three occurrences: death; disability; or retirement. A solid plan should account for each of these alternatives. Careful analysis must be given to the financial requirements of the current farm operator as well as the succeeding children in each scenario. Options might include a lifetime purchase, an inheritance, a purchase from the estate, or a long term lease.

**Fund the Plan.** The source of funding must be considered in advance. Will the plan require financing from a bank or will the parents carry the obligation? Disability and/or life insurance can be very important funding tools. Starting early is important to increase the likelihood of insurability and affordability.

**Consider the Non-farming Children.** Fair does not necessarily mean equal. Dividing ownership of the farm equally between all children, both farming and non-farming, is usually a recipe for disaster. If you desire to make a gift to a non-farming child, that gift should come from another area of the family’s wealth. Life insurance can benefit your planning by providing a source of funds to provide an equitable inheritance to non-farming children.

**Communicate.** The lifeblood of any plan is open communication. All participants must be in agreement as to the goal and the plan for getting there. Communicate the plan regularly and revise when necessary. Start the discussion now.

To accomplish proper planning a collaborative approach works best. The attorney, accountant, financial planner and insurance professional all have a role to play. In addition, a business coach or planner can be valuable in this process. Like the great basketball coach John Wooden once said: “Failing to prepare is preparing to fail.” How-

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ever, unlike failure on the basketball court, failure in this arena has devastating consequences. The failure to plan can cause financial problems for both the farm owner and the potential successor; be a source of family conflict; and result in the forced sale of land to pay taxes or other obligations. Conversely, proper planning will allow the farm to endure while caring for the needs of both generations.

## About the Authors:

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