

18. There's More to an Estate Plan Than a Will or Trust

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Abstract/Summary

Agricultural production is an asset intensive business, and farm and ranch families generally accumulate substantial estates over their careers. While an understanding of the legal aspects of an estate plan is important, there are a variety of issues that families should consider before they visit their lawyer and draw up an estate plan. This session explores many of these issues including having an accurate inventory of assets, the differing goals of spouses, treatment of on farm and off farm heirs and the importance of family communications.

There's More to an Estate Plan than a Will or Trust

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Who Has an Estate Plan?

Everyone has an estate plan, whether you know it or not.

If you do not want the State's cookie cutter plan, then you need to create a plan of your own.



Inventory

- Land
- Machinery and Equipment
- Grain and Livestock
- Bank Accounts
- Debts
- Investments



Inventory

- Retirement Accounts
- Life Insurance
- Personal Property
 - Titled and Untitled
 - Include Family Heirlooms and Items of Sentimental Value



Inventory

- Why???
 - You have an accurate inventory of what you need to include in plan.
 - You verify that all titled property is titled in the manner you wish.



We Know What We Have, Now What?

The first priority is generally to take care of the surviving spouse.

What do we do after the surviving spouse passes away?



We just want to be
FAIR.



It's Your Stuff!!



Children Do Receive the Bulk

- Dividing it equally is typical.
- Is it always equitable?
 - What about sweat equity?
 - Other issues?



Life Insurance

- Provide for the continuation of the business.
- Provide and income stream to survivors.



Outside Groups and Individuals

- Church
- School
- Charitable Organization
- Valued Employee
- Good Friend



Personal Property

- Sometimes Valuable
- Often Sentimental
- Thought Needs to Go Into How This Property is Handled



- Minor Children
 - Provisions for their care
 - Guardians named
 - Assets to provide for their care
- Special Needs Children
- As Children Grow
 - Planning can adjust to issues discussed previously

- Keep it as simple as possible for your given situation.
- Avoid undivided interests if possible.
- Don't manage from the grave.

- Lawyer
- Financial Advisor
 - KFMA Economist
 - Accountant
 - Other Planning Professional
- Insurance Agent or Investment Advisor
- Spouse and Other Family Members
- Lender

- What to look for in an attorney
 - Knowledge and experience
 - The ability to explain the plan in plain English
 - Plans that are too simple or too complex

- Honesty and Integrity
- Trust
- Can be a family member
 - Spouses and/or children are often co-trustees
- Outside Party
 - Lawyer
 - Trusted friend
 - Other professional
 - Bank trust department or trust company

- Why someone from outside the family
 - Expertise
 - Independent party that carries out your wishes
 - Looks out for the welfare of all beneficiaries
- Don't expect someone from outside the family to serve without compensation
- Choose successor executors or trustees

- Go to the Lawyer
 - Have everything written down.
 - Be Prepared.
 - The more prepared you are, the less time it will take your lawyer to prepare the plan.
- Choose the Structure
 - Will
 - Trust and Will



- Understand your plan
 - Have a working knowledge of what your estate plan accomplishes and how it works.
 - If you don't understand the plan – don't implement it.



- Don't Keep it a Secret.
- Hold a Family Meeting.
 - Plan a time in advance.
 - Explain what was done and why.
 - No surprises and fewer hurt feelings.



- Review Plan Every Five Years.
- More Often as Life Changes Warrant.



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