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Estate Planning for Farm and Ranch Families: Information for Your Legal and Tax Advisers

Paul H. Gessaman
Extension Economist



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Estate Planning for Farm and Ranch Families: Information for Your Legal and Tax Advisers

Paul H. Gessaman, Extension Economist

This is one in a series of Cooperative Extension publications providing information and background for estate planning by persons operating Nebraska's farms and ranches. Titles of documents in the series are listed at the end. Reading the documents in this series will improve your understanding of estate planning tools and alternatives, and will make it easier to communicate with your attorney, accountant, and other helpers when your estate plan is prepared.

The Need for Estate Planning

Property ownership ends and arrangements for dependent care are altered when death occurs. Survivors face a new situation — often a situation with many uncertainties — as they assume responsibility for property, generate needed income, and provide support and care for surviving dependents.

Through estate planning, each person and family can develop and adopt legally binding instructions for succession in ownership of property and indicate their preferences for the care of dependents. Estate planning provides opportunities to minimize the legal expenses and tax costs of succession and reduces the risk of family disagreements. It provides the design for transitions that inevitably follow the death of a family member.

Many persons find it difficult to start, and to carry out, their estate planning. In part, this results from the human tendency to avoid thinking about death — nearly everyone is reluctant to recognize and respond to the reality of being mortal. In addition, many persons view estate planning as a venture into the unknown:

They feel they have little understanding of estate planning alternatives, and find it difficult to identify the outcomes they desire.

However, estate planning is not unduly difficult when done one step at a time. Start by compiling background information needed for estate planning by completing this form. Identify your estate planning goals. When your goals are identified, take your background information and estate planning goals to your adviser(s). They can help you select estate planning "tools" (a will, a trust, gifting, etc.) most suitable for implementing your estate plan. Have your attorney and accountant prepare documents that will implement your estate plan. When signed and witnessed as required by law, these documents are your management plan for the transition that will follow your death.

Building the Information Base

This document provides a series of questions and spaces for brief answers. It will help you assemble information and organize your thinking about important aspects of estate planning. The information you compile will be used by your attorney and your accountant or other tax adviser as they prepare the legal documents that will implement your estate planning decisions.

The primary purposes of compiling this information are: (1) to reduce your costs of estate planning legal services; (2) to provide your advisers with a "picture" of who owns what in your farm or ranch operating unit; and (3) to indicate to your advisers the size and complexity of your farm or ranch unit.

Respond to each part of this document as accurately as possible. As you find appropriate, discuss the questions and answers with family members and any others who can help you ensure the accuracy of the information you record on this form.

In addition to answering the questions, you will need to secure photocopies of important documents. Your attorney will need to have

copies of documents such as leases, deeds, land sale or purchase contracts, partnership agreements, Articles of Incorporation, divorce decrees, documentation of inheritances or gifts received by you or others in the family, and other similar documents. Copies of recent income tax returns and documentation of property you hold in addition to your farm or ranch interests also are needed.

Compiling Your Information

The questions below focus on key elements of your present situation that are important in your estate planning. Provide responses to all questions that apply to you and your situation. Skip other questions that don't fit you and your situation.

1. It's important that the person(s) who help you in your estate planning have a clear understanding of the nature of your farm or ranch operations, as having that understanding will help to ensure that you receive the best possible advice. Your responses to all applicable sections of this questionnaire will provide a description of your production activities.

What types of agricultural production occurs on your present farm or ranch?

Field crop production - Identify the acreage and quantity of each grain produced in a typical year:

<u>Field crop produced</u>	<u>Typical acreage</u>	<u>Typical yield/acre</u>	<u>Typical total production</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Livestock production - Identify the type of livestock and number produced in a typical year.

<u>Type of enterprise</u>	<u>Typical number of head on hand</u>	<u>Typical number sold/year</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Other productive activities - Identify ag-related or nonfarm enterprises and businesses:

<u>Other enterprises</u>	<u>Typical level of activity</u>	<u>Important income source?</u>	
_____	_____	____ Yes	____ No
_____	_____	____ Yes	____ No
_____	_____	____ Yes	____ No
_____	_____	____ Yes	____ No
_____	_____	____ Yes	____ No
_____	_____	____ Yes	____ No
_____	_____	____ Yes	____ No

2. In the same way that they need to understand the nature of your production activities, person(s) who advise you on your estate planning need to understand the form of business organization used on your farm or ranch, to know who the owners are, and what ownership interest is held by each owner. Your responses to the applicable section or sections of this questionnaire will provide most of that information.

What form of business organization is used for your farm or ranch? (Complete only the section or sections applicable to your operation.)

_____ A sole proprietorship owned by _____

_____ A partnership with these partners:

<u>Name</u>	<u>Relationship to you</u>	<u>Percent ownership</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

_____ A limited partnership with a general partner and limited partners (describe the partnership, identify the general partner and the limited partner(s)):

The partnership is: _____

The general partner is: _____

The general partner's percent of ownership is: _____ percent

The limited partners are:

<u>Name</u>	<u>Relationship to you</u>	<u>Percent Ownership</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

_____ A family corporation (an "S" Corporation)

_____ A general corporation (a "C" Corporation)

_____ A nonprofit corporation (a "501(C)(3)" Corporation)

These are the owners of corporate stock:

<u>Name</u>	<u>Relationship to you</u>	<u>Percent Ownership</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Officers of this corporation and their relationship to you are:

<u>Name</u>	<u>Relationship to you</u>
President _____	_____
Vice-Pres. _____	_____
Secretary _____	_____
Treasurer _____	_____

The registered agent of this corporation is:

Name: _____

Address: _____

Telephone: _____

_____ A limited liability company (LLC). Members of the LLC are:

<u>Name</u>	<u>Relationship to you</u>	<u>Percent Ownership</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

_____ A trust or other form of business organization not identified above:

If a trust, name the beneficiary(ies): _____

If a trust, name the trustee(s): _____

If a trust, the trustee's address is: _____

If not a trust, describe the other form of business organization here: _____

The owner(s) and their relationship to you are:

<u>Name</u>	<u>Relationship to you</u>	<u>Percent Ownership</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

3. To ensure the validity of trust documents, gifts, bequests made in wills, other actions you may wish to include in your estate planning, it's important to clearly identify the nature of the property and the owners of all property in which you have an interest. In what land do you have an ownership interest, and in whose name(s) is the title held?

<u>Identity or legal description of land</u>	<u>Owner(s)</u>
_____	_____
_____	_____
_____	_____
_____	_____

Identity or legal description of land

Owner(s)

Who owns what machinery, equipment, buildings, other property, or improvements to land?

Type of property

Owner(s)

Farm machinery

Farm machinery

Grain storage bldgs. & grain handling equipment

Other buildings owned by landowner

Other buildings owned by other parties

Equipment other than farm machinery

Vehicles

Other major items of personal property

Other (describe) _____

By type, who owns what livestock?

Type of livestock

Owner(s)

By type of nonfarm property and/or financial asset, who owns what?

Type of property/asset

Owner(s)

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

In what other assets that should be recognized in your estate planning, do you have an ownership interest?

Asset

Owner(s)

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

What does a current balance sheet indicate is the approximate total of:

Your assets? \$ _____

Your liabilities? \$ _____

Your net worth \$ _____

By type of debt, who are your principal creditors?

Type of debt

Principal creditor(s)

Real estate mortgage debt	_____
Intermediate term debt on livestock	_____
Intermediate-term debt on machinery & buildings	_____
Operating debt - short-term credit	_____
Personal debt - notes, credit cards, etc.	_____
Personal debt - automobiles, nonfarm debt, etc.	_____
Other: _____	_____

4. To ensure a smooth transition in management, it's important that your advisers (your attorney and your tax adviser) have a clear understanding of current arrangements for management, labor, and financing in your farm or ranch operation. Most of the information they need will be compiled in your responses to the following questions:

Who is responsible for management of your farm or ranch operation — that is, who does what? And, how consistently does he or she carry out each management responsibility?

<u>Management responsibility</u>	<u>Name</u>	<u>Has responsibility when?</u>		
		<u>Always</u>	<u>Sometimes</u>	<u>Rarely</u>
Crop production	_____	_____	_____	_____
Livestock production	_____	_____	_____	_____
Input purchases	_____	_____	_____	_____
Livestock purchases	_____	_____	_____	_____
Pricing & marketing crops	_____	_____	_____	_____
Pricing & marketing livestock	_____	_____	_____	_____
Financial/credit management	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Who currently provides labor for the various farm work responsibilities?

<u>Work responsibility</u>	<u>Name</u>	<u>Has responsibility when?</u>		
		<u>Full time</u>	<u>1/2 Time+</u>	<u><1/2 Time</u>
Crop production/grain handling	_____	_____	_____	_____
Livestock production/hauling	_____	_____	_____	_____
Machinery & equipment repair	_____	_____	_____	_____
Building maintenance & repair	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

What percentage of the financing needed for farm/ranch operations comes from each source?

Percent	Source
_____	Commercial bank loans
_____	Other commercial lenders
_____	Sales receipts and government payments
_____	Self-financing from savings
_____	Loans or gifts from family members not involved in the farming operations
_____	Loans or gifts from other persons not involved in the farming operations
_____	Loans or gifts from persons (family or other) with a financial interest in the farm
_____	Receipts from capital sales (land, buildings, machinery & equipment, etc.)
_____	Other sources? (identify) _____

5. Does your farm or ranch have any unique or important characteristics that need to be recognized in your thinking about estate planning? If so, here is a place to identify them:

6. Are you or your spouse likely to receive an inheritance?

_____ No

_____ Yes. Briefly describe it here: _____

When might you or your spouse be likely to receive this inheritance?

_____ Within the next five years

_____ Six to ten year from now

_____ More than ten years from now

7. Do you or other members of your immediate family have characteristics or needs you want to recognize in your estate planning? To help you think systematically about this, respond with "Yes" or "No" to these questions. When your answer is "Yes," identify the person(s) and record information on factors that affect your estate planning:

Does anyone who may be an heir have chronic health conditions that require special living circumstances and/or large expenditures for health care?

_____ No

_____ Yes — Person and circumstances: _____

Does anyone have disabilities that cause him or her to need an unusual level of financial support and/or continuing care?

_____ No

_____ Yes — Person and circumstances: _____

Does anyone have dependents requiring unusually large commitments of financial support?

_____ No

_____ Yes — Person and circumstances: _____

Is anyone past working age and not receiving adequate retirement income?

_____ No

_____ Yes — Person and circumstances: _____

Does anyone of working age need financial or other assistance?

_____ No

_____ Yes — Person and circumstances: _____

Does anyone have personal characteristics that rule out your making him/her a principal heir?

_____ No

_____ Yes — Person and circumstances: _____

Is anyone in the family about to marry or about to secure a divorce?

_____ No

_____ Yes — Person and circumstances: _____

Does family member have other special needs or circumstances that should be recognized in your estate planning?

_____ No

_____ Yes — Person and circumstances: _____

8. Are there other circumstances directly affecting the business unit? As appropriate, respond to these questions with "No," or "Yes." When your answer is "Yes," identify the person(s) and write in information as needed for your estate planning activities:

In the past, have assets been distributed to one or more persons who might be heirs?

_____ No

_____ Yes — Person(s) and amounts: _____

If yes, were the distributions such that they should influence your estate planning?

_____ No

_____ Yes — Person(s) and type of effect: _____

Do persons who might inherit your farm/ranch find it difficult to get along with each other?

_____ No

_____ Yes — Person(s) and circumstances: _____

Is any possible heir, or is the farm/ranch itself, the plaintiff in any type of legal action?

_____ No

_____ Yes — Situation: _____

Is any possible heir, or is the farm/ranch itself, the defendant in any type of legal action?

☐ No

☐ Yes — Person(s) and circumstances: _____

Has anyone connected with the farm/ranch or any possible heir been involved in any type of activity that has or might result in future civil or criminal legal action ?

☐ No

☐ Yes — Person(s) and circumstances: _____

Is one or more of your intended heirs not involved in day-to-day operations of your farm or ranch?

☐ No

☐ Yes

If yes, is that person a relative? (Name(s) and relationship(s)) _____

If yes, is any such person interested in returning to operate your farm or ranch?

☐ No

☐ Yes — Person(s) and level of interest in returning: _____

9. Please use these questions to identify some "end results" of estate planning that you want to attain.

Do you want the farm/ranch business to continue operations after your involvement in it ends?

☐ Yes ☐ No ☐ It's not important to me that it continue operating.

If yes, please mark the response that most closely describes the level of importance you give to the farm/ranch continuing as an operating unit:

☐ My top priority

☐ Somewhat important

☐ Very important

☐ Not important

☐ Important only if a family member is operating the farm or ranch

☐ While I prefer the farm/ranch continues, I do not feel that it must continue.

If yes, do you expect that a family member will be the next person to operate your farm/ranch? (mark one answer)

☐ No ☐ Don't Know ☐ Yes

If yes, how will that person come into possession of the farm/ranch? (mark one answer)

☐ By inheriting it from me ☐ By purchasing it from me

☐ By receiving it as a gift at a time prior to my death

If no, will the person who operates the farm/ranch be a part or full owner? (mark one)

☐ Yes, I expect to sell it and the new owner will be the operator

☐ Yes, I expect it will be inherited by a person not in the family

☐ No, I expect it will be operated for me (my heirs) by a hired manager

☐ Other — Please describe: _____

If you expect that someone you know will be the next operator of your farm/ranch, how close is that person to being ready and able to do so now?

☐ Ready to do so now

☐ Nearly ready, but needs more experience

☐ Just getting started in farm/ranch management and need lots more experience

☐ Other — please describe _____

Do you plan to retire at a time in the near future?

☐ Yes ☐ No ☐ I don't have a "Yes" or a "No" answer at this time as I'll not be able to decide until _____

If yes, have you selected a proposed retirement date? (please mark one)

☐ Yes, and the date is: _____

☐ No, I do not have a definite intended date for retiring. However, I plan to continue to operate my farm/ranch for about _____ more years.

If yes, where do you plan to live after retiring? _____

10. Have you developed a plan for the transition in ownership and/or management?

_____ Yes, we have a written transition plan

_____ Yes, we have discussed the transition, and know how we will move ahead with it

_____ No, we still need to develop a transition plan

If **yes**, to what extent have you moved ahead in carrying out the transition plan?

11. As you think about outcomes from your estate planning, what are the two or three most important long term outcomes you want to attain through your estate planning activities?

1. _____

2. _____

3. _____

12. As you think about estate planning outcomes to be attained during the next two or three years, what three or four are the most important?

1. _____

2. _____

3. _____

4. _____

Estate planning is your means of developing a management plan for the future. It's a management plan that in the broadest sense is built on information about all aspects of your farming or ranching operation, and is focused on your vision of the future. Estate planning gives you an opportunity to look ahead and make provisions for caring for your family, your property, and your family's future in farming. It also provides an opportunity to re-examine your present operating arrangements and practices.

Estate planning that examines future possibilities and selects desired outcomes also gives you an opportunity for comprehensive review of the physical, financial, and human resources important to continued operation of your farm or ranch. It also provides stimulus for thinking about the future as you identify goals, assess your financial position, examine your operating procedures, and consider who does what in managing and carrying out the daily work of farming or ranching.

As you identify estate planning goals, gather information for your legal and tax advisers, think about present and future operations, and review drafts of estate planning documents, you act to ensure continued good management, wise resource use, and profitable operations. Be pleased with yourself for investing the time and effort it takes to become an even better manager by developing a plan for transitions that could come at any time.

Documents in this series:

- | | |
|-----------|--|
| NF 95-227 | Intestate Succession In Farming and Ranching |
| NF 95-228 | Using a Will In Farm and Ranch Estate Planning |
| NF 95-229 | Joint Tenancy In Farm and Ranch Estate Planning |
| NF 95-230 | Tenants In Common Ownership In Farm and Ranch Estate Planning |
| NF 95-231 | Using a Trust In Farm and Ranch Estate Planning |
| NF 95-232 | Using Gifting In Farm and Ranch Estate Planning |
| NF 95-233 | Glossary of Estate Planning Terms |
| NF 95-234 | Probate In Nebraska: The Probate Process |
| NF 95-235 | Probate In Nebraska: Duties of the Personal Representative |
| NF 95-236 | Nebraska Inheritance and Estate Taxes |
| EC 95-819 | Estate Planning for Farm and Ranch Families: Information for Your Legal and Tax Advisers |

Related publications:

- | | |
|-----------|--|
| NF 93-143 | Federal Estate and Gift Taxes |
| NF 93-144 | Determining Property Basis |
| NF 93-145 | Special-Use and Alternative Valuation of Estate Property |
| NF 93-146 | Delayed Payment of Federal Estate Taxes |
| NF 93-147 | Tax Considerations in Selling Farm Property |