



THE ESTATE PLANNING CENTER, LLC

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FARM SUCCESSION PLANNING - KEEPING THE FAMILY FARM IN THE FAMILY

Farm estate planning is unique. It involves planning across a wide range of issues, including estate planning, tax planning, business planning and business succession planning. Many farm clients are asset rich but cash poor. Many farm clients have a strong desire to keep the farm together and operated by family members. A majority of first-generation family farm heirs will not want to sell the farm. However, some off-farm heirs will want to sell, especially when pressed by spouses who did not grow up on the farm and have no sentimental attachments to farm life. Second and third generation off-farm heirs generally lose the sentimental attachment to the farm and look at it as a business asset that is not making enough money and is therefore to be converted to cash or better income-producing properties. The family partition suit is a direct threat to continuation of the farm operation.

Nearly every farm client will be dealing with debt. This requires knowing how to deal with mortgages to banks in the planning process and also how to deal with federal loan programs such as federal land bank loans, farm credit service loans, and federal emergency farm loans. Nearly every farm client participates in some level of government program.

Many farm clients are unable or unwilling to allocate sufficient cash to buy an adequate amount of life insurance to create sufficient liquidity at death to pay taxes, facilitate the transfer of the farming operation to the on-farm heir(s) and not disinherit the off-farm heirs. (Many heirs have entitlement notions.)

Revocable living trusts serve as the best foundation for farm clients. Disability planning is extremely important in designing these trusts, as is multi-generational asset protection planning and tax planning. All farm clients can benefit by a well-designed living trust (which should include a Disability Plan), together with a Pour-Over Will, General Durable Power of Attorney, and Health Care Power of Attorney.

Business entity creation may be advisable for asset protection purposes, ease of management, facilitation of passing assets to the next generation, providing valuation discounts, addressing self-employment tax issues, and providing benefits such as health insurance, cafeteria plan benefits and retirement plan benefits.

Entity creation should be designed so as to qualify for multiple payment limitations under the payment limitation rules of the FSA farm programs.

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** By Appointment Only*

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