Want to

Cover all the bases to protect all your assets.

*by **Barb Baylor Anderson,** field editor*

Chances are, you know someone who has faced farm financial or inheritance challenges following the death of a parent or spouse. Take, for example, the unexpected death of a close friend's father last year. Amid the grief, she got a call from the bank that her father's farm property taxes were due. The problem is that neither she nor any of her siblings had access to the checking account to pay them. Grieving and planning an untimely funeral became tangled with having to spend time managing farm assets through a lawyer.

Access to a checking account is just one detail in the estate-planning process that is often overlooked, says Curt Ferguson, attorney and owner of The Estate Planning Center, Salem, Ill., who counsels producers from Illinois and Missouri. "There typically are some pieces of the estate that have not been covered, like names on a car title or a checking account," he says.

Since an heir must step up and handle such questions, Ferguson says that person generally goes on record with the Internal Revenue Service (IRS) as the one to be sure anything owed to the government is paid.

"It is critical for someone to be responsible for the deceased's affairs. That person should have access and control of assets they will need to pay any taxes owed," he says. "The best way to prevent excessive amounts of your estate from being inherited by lawyers is to formulate a plan that covers all the bases. Determine what you value and how best to pass it on."

DRAWING BY JEREMY W. SIMMONS

Pass it On?

Put together a proper plan

For producers who have not done any estate planning and hope to keep the ranch or farm within the family, Ferguson offers some general suggestions to get the ball rolling.

1. Seek professional help. Ferguson encourages producers to seek assistance from both an attorney and an accountant, preferably professionals familiar with the estate-planning process.

2. Become educated. Don't rely on the advice of well-meaning friends or colleagues at the coffee shop to learn how to plan your estate. Seek out knowledgeable resources and people who understand and work with asset protection and do your homework. Get your questions answered. Learn what you can accomplish before you decide what you want to do.

3. Be prepared to thoroughly identify all of your assets. Ferguson says the process to earmark all assets may be time-consuming, but it is vital to the estate-planning success. Review all your paperwork and holdings for any transfers on death and designated beneficiaries. The list will include everything from land deeds to bank accounts to company stock and insurance.

"All of your assets should follow the same plan," he says. "Many people focus on trying to avoid probate. You can try and avoid probate, but understand that if your assets are titled to avoid probate, then your will does not control them. A better approach — avoid probate and coordinate everything into one clear plan — is to use a revocable trust to control and distribute your assets."

4. Understand your state's laws. State law determines your estate. So if you don't express what you want in a legal plan, half of your estate will go to any spouse and half will be split equally among any children. Ferguson says that in many states, children 18 and older are considered adults and can inherit their fair share with no strings attached. If you are uncomfortable with the age established for your state or other laws, spell out your stipulations in an estate plan.

5. Avoid joint ownership. Joint ownership with a spouse may seem simple, but it is not always best. If you put all of your property in joint ownership, Ferguson says resolution after the first death may seem easy, but a lot of opportunities for asset protection and tax planning are missed. At the second death, the potential for problems dramatically increases.

> "Your children need to know your plans so they can know how to plan their futures."

A trust can be established to manage the farm and avoid the lack of a plan following the second death. For families with a corporation or LLC, where shares of the company may be payable or transferable at death, the scenario is similar to joint ownership. Consult with a professional to determine how to transition stocks or ownership and keep your wishes covered.

Regularly revisit an existing plan

If you already have a plan to protect your estate, it may be time for a professional review. Ferguson recommends farmers and ranchers with existing plans have them evaluated every two years by someone familiar with tax laws. Tax laws typically change every two years.

"Consider your goals when you first designed the plan. Did you set it up just to avoid probate, avoid taxes and divide all your assets evenly? You can do so much more than that," he says.

For example, Ferguson advises producers to review how assets are titled. Deeds, wills and IRAs should align with your overall estate plan, because beneficiaries on those documents would supersede your estate plan. Life insurance also should be owned in a trust.

"You can shelter assets from long-term health expenses, catastrophe and taxes if you have a large estate. This is the sort of thing 'the rich' have done for a long time, but the average, hard-working ag family with a more modest estate has not had this explained to them," he says. "Most people don't realize you can leave your estate to your adult children in a trust that can be controlled by them, but protected from being wiped out by a lawsuit or divorce."

Communicate your plan

Whether you are putting together a new plan or already have a plan, Ferguson says the most important step in the process is making your choices clear and known to your family.

"Most people want to make it better for the next generation, although keeping things equal and fair among multiple children can be a tough challenge," he says. "If you have children working on and off the farm, look for creative ways to reward all of them. If you want to avoid forcing a sale of land or cattle, provide right of first refusal to siblings as an example.

"Your children need to know your plans so they can know how to plan their futures," continues Ferguson. "If you can't share the truth about your plan with all of your kids, either your plan is unreasonable or your kids are unreasonable, and one might say that you are responsible for both."

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BUILDING YOUR BUSINESS

Editor's Note: *A former National Junior Angus Board member, Barb Baylor Anderson is now a freelancer in Edwardsville, Ill.*