



Consider practical ideas for passing on your land



Estate-Plan Edge

By CURT FERGUSON

AS you consider estate planning, you might feel the desire to keep land in the family without unnecessarily tying your heirs' hands.

Some clients are very clear: "All my farm ground must be given to my farming son, and he can never sell it!" Another family is just as clear: "Let the kids split it equally; I don't care how." However, as is the case with so many issues in life, most people are not at either extreme, but are somewhere in between. What options are available?

Divvying up land, assets

One couple thinks clarity is the most important thing. They describe their real estate in three tracts and say (to their trustee or other representative): "When I die, give Tract A to Allen, Tract B to Bill and Tract C to Carol." The estate plan then calls for the trustee to divide any other assets of the estate equally among the three children. This might result in unequal dollar values being inherited by each, since the land values are almost impossible to equalize.

Another couple starts off the same way — Tract A to Allen, Tract B to Bill and Tract C to Carol — but then, based on the real estate appraised values at death, says "divide cash assets unequally among the children as needed to make each inheri-

tance equal in total value." This can work if there is enough cash or other assets to use to make up the differences.

Someone else might define the three tracts and say: "Bill, being the farmer, has first pick; after he selects, then Carol gets to choose; then Allen gets the one that is left." They would still need to decide how to divide the other assets, such as unequally to equalize the overall values, or equally, or some other manner they believe is fair.

Then there is the approach that says: "All land will be divided among the children as they may agree." For a family that gets along well, this might work. Unfortunately, the kids' interests are usually quite different. One wants maximum dollar value while others want property on which to earn a living. This can make it very difficult for a harmonious estate settlement.

Protect a farming heir

To any of the aforementioned, you could add other protection for a farming child. For example, while living, you might give a farming child a long-term lease on property. But be careful! This could reduce the fair market value of the land at your death, since the lease rights make it less attractive to an objective, third-party buyer.

Similarly, you could direct that at the time of your death, the farming child receives a multiyear lease on some or all of the property so that for some period he has the security of knowing he has that ground to farm. The other kids can receive ownership of that ground (i.e. tract A, B or C), but they would have

to honor the farming son's tenancy.

Keep it in the family

Let's say keeping land in the family is your objective. All land could be divided among the children (by any method mentioned) but subject to this condition: If any child wants to sell his or her land, he or she must offer it first to the siblings on the same terms proposed for any outside buyer.

This condition doesn't tie the heirs' hands, but makes sure family has opportunity to keep it. For a stronger incentive to keep land, you might direct that before any child can sell, he or she has to offer it to the siblings at a discount. While an outside buyer might be offering \$4,000 per acre, perhaps (for example) it must be offered to siblings at 60% of the third-party offer. The child considering selling has a choice: Keep the land or cash out — but the cash-out will probably be for less money. It provides an incentive to keep the land.

Any of these options can have time limitations — for example, if you sell within 10 years, you have to offer it to your brother for 60%, or something like "while any of my children are living."

Whatever your desires, your instructions for dividing your farm probably will be memorialized in a living trust or will. Either one remains changeable up until the day you die or lose mental capacity. Be sure you retitle what you own so it will follow the plan! Instructions in a will typically require probate, so I often recommend a living trust.

Remember to coordinate these goals with estate tax strategies and asset protection opportunities. But think outside the box, and get good counsel to help you carry out your wishes.

Perfect year just needs planning



The Back 40

By GAIL C. KECK

REALISTIC yield goals are certainly helpful for making grain marketing decisions, planning grain storage and figuring out production details like seeding and fertilizer rates. But at this time of year you can still enjoy the possibility of unrealistic yields. Throughout the year, as information about the growing season becomes available, you'll readjust your management and expectations. But so far nothing has happened to completely rule out that illusive perfect season.

Most years, you can do everything right and something will still happen to hurt yields: flooding in May, a freak hailstorm in June, drought in July, hurricane-force winds in August, early frost in September, flooding again in October, snow in November. Then there's the possibility of equipment breakdowns, weed control failures, beetles, borers, plagues and pestilence.

Prudent planning can minimize the yield losses from these problems, but any one of them can significantly reduce yields. Realistically, you have to expect something bad to happen between now and harvest.

I don't know about you, but I also have to figure on doing something stupid and expensive at some point. Every year I add a few more items to the list of mistakes I never want to make again. You'd think by now I might have eliminated enough bad ideas that I'd increase the chances of getting things right, but that doesn't seem to be the case. Unfortunately, growing

and market conditions aren't cooperating, and decisions that were mistakes one year could have led to great successes in different years, and vice versa. Even so, I figure it's theoretically possible to make a series of good production and marketing decisions, coinciding with optimal growing conditions.

Realistic yield goals are usually based on past production history, but unrealistic goals can go beyond those facts to include other factors that might lift yield. For instance, say our realistic yield goal is 150 bushels of corn an acre based on known yields from the past five years. Unrealistically, I can start with that same figure, and then add in yield increases based on various research projects.

Here are just a few examples I found in my stash of farm magazines and research summaries: 12 bushels per acre from upgrading planters to get better seed placement, 10 bushels for switching to a certain seed company's stacked biotech hybrid, 25 bushels for good drainage, a 6% increase from good early-season weed control, 19% more from maintaining a crop rotation, and an extra 30% for exceptionally good weather throughout the growing season. Just adding up these potential yield increases gives me an unrealistic yield goal approaching 300.

You can make yields look even better by basing each percentage increase on the cumulative total, sort of like figuring compound interest. But realistically, that's more math than I'm willing to do without a calculator. Either way, it's looking like a great year so far.

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Ask the expert

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