

Farming with family: 10 dos and 5 don'ts

WHAT makes for a successful family farm business — whether with family or as a sole proprietorship? Choosing the right entity, reducing taxes and limiting liability are all important. However, success takes more than that, say three veterans of ag tax law and management.

Here, they offer up what they've learned during decades of work with Illinois farm families. Gary Goodwin, FBFM field representative, offers up a "Top 10" list of what successful farm families do right, while agricultural attorney Tom Jennings and ag accountant Darrell Dunteman take a look at what they've seen go awry.

Traits of a successful farm

1. They know how to manage for maximizing profits instead of minimizing taxes. It's one thing to buy more at year end to reduce taxes, but you have to pay for it next year.

2. They realize they don't have all the answers, but surround themselves with consultants.

3. They have a debt load of less than 50%. "More than that and then the banker [has] got more invested in you than you do," Goodwin says.

4. They operate with honesty

and integrity. "Someone who's known as honest will pick up more land," adds Goodwin.

5. They are goal-oriented.

6. They are detail-oriented but not micromanagers. There is a fine line between the two.

7. They're active in community and church. For picking up new land down the road, you need good local contacts.

8. They have a well-rounded family life. If there's a family problem somewhere, it will affect the farm down the road.

9. They are constantly learning to be better. They ask questions, go to meetings and do research.

10. They avoid excessive alcohol, fooling around and drugs. If you're involved in those sorts of things, it will affect your business, Goodwin says.

How to do it exactly wrong

Here, a short course on what not to do:

1. Tie all the land up within a C corporation. It's next to impossible to get the land out without paying dearly.

2. Nurture an inability to release control and, therefore, never plan your estate.

Jennings worked with a family in this exact situation, where the father lived to his 90s and could've been gifting his estate over several decades. His heirs wound up paying \$1 million in estate taxes; Jennings estimates that amount could've been cut in half had they begun gifting long ago.

3. Develop an estate plan, but keep it a big secret from your children. "When people are surprised, they react more emotionally," Jennings says. As a general rule, the more Mom and Dad define their plans to their children while they're still alive, the better things will go. "Have a family meeting and say 'This is what we want to do,'" he adds. "It doesn't have to be every detail, but give the general gist and why."

4. Refuse to let your farming son take over the business. Goodwin sees farmers who don't want to hand over the reigns, resulting in 50-year-old sons who are still working under Dad. "He just doesn't want to give up control," Goodwin describes. "He'll say, 'I'm 70, but I don't care; I'm still going to make decisions.'"

5. Pay one partner more than the other(s). If you're partners, you're equal, says Dunteman. "Anytime I've seen differences in compensation, I've seen strife." He worked with one



GARY GOODWIN

family of three sons; the father gave in to the son who ran the hog operations and thought he was worth more. "They ended up splitting," Dunteman recalls. If everyone works equally hard, they should each be paid equally, even if one enterprise generates more money.

How one family makes it work

What's the most important thing you've learned from being involved in a family business?



"Let the boys do what they need to do."
Kenneth Wachtel

"Have goals, and treat everybody fair. You have to get along. And if you're not fair in a business and people don't get along, things go haywire."



Gary Wachtel



"Sell your ideas. If you want something done your way, you have to 'sell' your idea to the

other guys before it's going to happen. All the while, they're likely trying to sell a different idea. It's not always a case of best salesman wins, but there have been times when the better sales pitch earned a lesser idea the green light."

Todd Wachtel

"Just bite your tongue sometimes! Sometimes it's better left unsaid."



Calvin Wachtel

Inside Illinois Ag Briefs

Corn checkoff rising

Illinois corn producers voted in favor of increasing the corn checkoff rate to 3/4 of a cent per bushel, up from the old 1/4-cent rate. The spring referendum was passed by corn growers by 1,180 votes to 520. The program will retain the right to refund, and the new rate will take effect Oct. 1. The Illinois Corn Marketing Act was established by growers in 1982 as a means to fund corn market development, research, promotion and education efforts. The rate increase, equivalent to about 20 cents an acre, will be the first since the program was initiated.

Join new farmers market

Farmers markets are sprouting up everywhere, appealing to consumers looking for the tastiest and freshest locally grown food. A newcomer to the Illinois farmers market scene is the Geneva Green Market, located in Geneva, approximately 40 miles due west of Chicago. Organic, natural and sustainable farmers who grow fresh fruits, vegetables, dairy and meat products are encouraged to join the weekly market. The market date is set for Thursdays to appeal to local chefs who want to buy fresh produce for the weekend, says Karen Stark, who helped create the market. For more information, call Stark at 630-208-9321.

Livestock quiz for youth

Participants in the summer's 4-H and State Fair livestock shows have a place to go to test their knowledge before entering a Young Producers Contest. Livestock e-quiz (web.extension.uiuc.edu/equiz) includes questions at three levels — elementary, high school, and college — on beef, dairy, horses, poultry, sheep and forages. Those who do well on the quiz have the opportunity to enter their initials in the site's "Hall of Fame."

U of I to sell farm

An 893-acre DeKalb County farm owned by the U of I will be split in 12 tracts and sold at a public auction at 1 p.m. Thursday, June 7 at South Pointe Centre in DeKalb. The farm was gifted to U of I in 1943 by the late Illinois Sen. Harry G. Wright to be used to promote ag education and fund ag scholarships to the U of I's College of Agriculture, Consumer and Environmental Sciences. Westchester Auctions LLC will manage the auction. The Wright Farm Endowment will continue to fund ACES scholarships and fellowships, and contribute to the costs of relocating the College of ACES South Farms.

Short course in business entities

WHAT'S right for your operation — a partnership, a corporation or an LLC? Don't know the difference?

Sorting through the different options for managing your farm business can be a confusing process, with pros and cons to each one. Ag attorney Tom Jennings offers up this quick guide to farm entity options in Illinois:

■ **Sole proprietorship:** One entity, one person.
Pro: No frills, simple.
Con: Unlimited liability.

■ **Partnership:** Two or more people; profits and losses are passed to the partners.
Pro: No frills, simple.
Con: Unlimited liability.

■ **C corporation:** What's thought of as a "regular corporation." C corporations are distinct and separate taxpayers, and can have different classes of stock for voting and nonvoting members.
Pro: Provides limited liability protection and distinct

health benefits; creates additional entity for FSA payments.

Con: Double taxation on sale of assets: corporation pays tax and individual pays tax. Terrible tax implications for taking land out (don't put it in there in the first place).

■ **S corporation:** Doesn't pay its own taxes; profits and losses flow directly to shareholders, eliminating double taxation in C corporations. Pays profits as dividends or salary.
Pro: Provides limited liability protection, flexible management; creates an additional entity for FSA payments.
Con: None. If changing from a C to an S, look for built-in gains problems.

■ **LLC:** A limited liability company is taxed as a partnership, similar to the S corporation; gains and losses flow directly to individuals.
Pro: Provides limited liability; easy to put land in and take it



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out; good for estate planning purposes.

Con: If used for operating structure, puts everything into a single entity, which can create FSA payment limitation problems. One solution is to string several LLCs together in a partnership. Setup and maintenance fees apply: \$400 start-up fee to state, then \$200 annually thereafter.

■ **Series LLCs:** In this scenario, the property in Series A, Series B, etc., can be managed by the same LLC.

Pro: Separates various businesses, but keeps them under one umbrella.

Con: The liability would be connected, too (i.e., say you have land in Series A and a trucking business in Series B; in an accident involving the trucking business, litigants would have access to land in Series A). However, you can segregate liability, providing protection between the different series.