

Farm Management

Solid planning keeps the farm in your family

Editor's note: We are happy to introduce a new column to The Farmer that will feature discussion on estate planning and related topics. Attorney Mark Balzarini at Miller Legal Strategic Planning Centers in Tyler kicks off this month's column. Estate planning attorneys at Miller Legal look forward to hearing from readers. You may contact them at comments@millerlegal.com.



Farm & Family

By MARK BALZARINI

WHETHER you are looking to transfer your operation to a family member or find a way to preserve its value while winding it down, there are numerous planning options available to make this happen.

As we work with clients, we encourage them to incorporate their thoughts into the beginning of the estate planning process. We ask them to imagine their lives have ended and that they are looking down from above at their loved ones. Everything they see indicates that their estate plan is working perfectly, exactly as they planned. We ask them, "What do you see?"

Joel and Kim are dairy farmers in their mid-50s who came to our office for assistance in their estate planning. When asked this question, they considered various scenarios and developed a plan. They milk 350 cows and operate as sole proprietors. They want to continue farming for at least 10 more years.

They have three children, two daughters and a son who are all in their mid-20s. Their son works with them on the farm, assists in making decisions, and looks forward to joining them in the dairy operation.

When asked to describe how they would want their estate plan to be working in the event of their incapacity or upon their deaths, Joel and Kim came up with the following goals:

■ They first required a plan that allows them to keep control of the operation and property while they are alive and well. In the event they became incapacitated or

upon their deaths, they want someone to be available and empowered to act on their behalf immediately to make the day-to-day decisions for their estate and the dairy.

■ To maximize the viability of the estate and operation, they wanted tax-saving strategies that would reduce their income tax and estate tax liabilities. Since their son was taking on more responsibility in managing the dairy, they wanted to have the ability to transfer interest in the dairy operation to him while they were alive.

■ Recognizing the risks of losing property in the events of divorce, lawsuit or bankruptcy, they wanted their plan to include asset protection strategies. Upon their deaths, the full dairy operation and the farmland used in the operation would pass to their son. Their daughters would receive equitable distributions.

LLCs, RLTs, ILITs

To achieve these goals, we established a limited liability company for the farming operation. This created a vehicle for the transition of portions of the operation to their son. Joel and Kim used a portion of their lifetime gift exclusion and their annual gift exclusions to transfer portions of the LLC gift- and estate-tax-free.

The LLC rents the farmland and buildings in order to create passive income and

expense. This rental arrangement allows for saving on self-employment taxes, which will provide retirement income in the future.

We created revocable living trusts for both Joel and Kim, too. The RLTs are the center point of their estate plan. These RLTs provide the provisions and instructions for management of their estate in the event of incapacity or upon their deaths. Additionally, the proper administration and funding of the RLTs will maximize the use of estate tax credits and exclusions, and ensure the assets will be distributed to their children in a manner that protects these assets in the event of their children's divorce, bankruptcy or litigation.

As a means to equalize the distributions to their children, Joel and Kim established an irrevocable life insurance trust that is funded with existing life insurance policies and a second-to-die life insurance policy. Their daughters are the beneficiaries of this ILIT, which will equalize the total distributions to the children.

This is an example of a particular family and client. Every client has unique goals. That's why it is so important to customize your estate planning. In the months to come, we will review these planning tools in depth, using examples of other client circumstances.



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