

A trust can either control or empower

It seems that every day I speak with another farmer seeking advice about how to protect his or her farm. Maybe it's a few hundred acres, maybe a few thousand acres. But in each case, the farm is largely the result of a lot of hard work, sacrifice, risk-taking and good management. Inherited land? That's often the result of even greater effort by your parents or grandparents, and is even more sacred.

From what do we need to protect that land? Taxes are certainly one thing. As the price of land sailed over the top of the neighbor's grain leg, just having enough land to make a living means the politicians count you among "the rich" and want to tax your estate.

Real risks

But taxes are not the only thing to fear. Every time your farm employee drives onto the public highway, you face the risk of a lawsuit that could wipe out the farm. You carry liability insurance with multimillion-dollar limits. However, no amount of



Estate Plan Edge

BY CURT FERGUSON

insurance can assure your farm wouldn't be taken if the wrong accident happens.

Then there is the nursing home. I increasingly hear this fear, especially from those with the small family farm: "If I get sick and go to the nursing home, the expenses will go through my savings in no time, and my family will have to sell the farm to pay for my care."

Oh, don't forget the siblings. Your parents retired, and you farmed all their ground, while trying to buy a bit more of your own. Then your parents died, and their estate passed to their children equally — you and your four nonfarming siblings. Your siblings see only the dollar signs, but hey, they are willing to strike a deal with you! Pay them for their 80% and you can have the land. Can't raise the money? "No

problem," they say. "Let's just sell it, and you can spend your 20% any way you wish!"

These risks are real. There are no magic pills, no quick fixes and no silver bullets to make them go away. Each has a range of possible solutions, all imperfect. The more money you spend on insurance and attorneys, the greater protection you can usually secure. But that seems so distasteful. Lawyers and insurance? If only there was a better way.

Trust protection

What crosses your mind when you hear that a neighbor "died and left his property in trust," or "he left everything tied up in a trust"? The implication often is, "The old man thought he had to control everything from the grave!"

You might be right. Some people are control freaks who feel like they can't trust their 50-year-old children to make good decisions. Such a parent might try to use a trust to control their children from beyond the grave.

But maybe it's not that way at all. To leave property "in trust" can mean many different things.

What can your daughter do with inherited land? Farm it, rent it, trade it,

mortgage it to buy more or to make improvements, or simply sell it and reinvest or spend the proceeds. Remember all the things from which you wanted to protect the farm? Your daughter would face the same risks. You punted your fears to the next generation.

But maybe that neighbor who left his property to his son "in trust" actually left him a beneficiary-controlled asset protection trust. Within such a trust, the son could do all of the things just mentioned — farm it, rent it, etc. So what difference would it make to have it in trust?

The difference is that he received the land with protections. He won't have to worry about estate taxes — the inherited land is out of his estate. He needn't worry about losing it to the employee's accident or the nursing home. If you stipulated that land can't be sold out from under him by his siblings, then he is protected from that risk. Oh, and for good measure, his divorce can't touch it.

Consider giving your heirs their inheritance in an empowering trust, especially if you don't want to control from the grave.

Ferguson owns *The Estate Planning Center* in Salem. Learn more at thefarmersestateplanningattorneys.com.

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Register for the 2016 Farm Assets Conference

THE 2016 WILL Radio Farm Assets Conference will be held Nov. 22 at the Marriott Hotel in Normal in conjunction with the Illinois Corn Growers Association's annual meeting.

Agenda topics include:

■ Big data: From theory to practice.

Farmers consistently hear about field-level data-driven decision-making. Data collection has already been implemented in combines, tractors, planters and government databases. Aggregated together, this information becomes big data. Speakers will explore how companies are compiling this information in ways that will transform farm field operations and home office integration.

■ **ARC, PLC and crop insurance in the next farm bill:** University of Illinois agricultural economists Jonathan Coppess and Gary Schnitkey will explore how the table is set in Washington, D.C., for discussions about the next farm bill. The new president will set the tenor for how Congress

addresses the farm safety net during this downturn in the ag economy. Crop insurance has been a prime target since the 2012 drought, and the early chess game suggests it will remain a pawn in the negotiations.

■ **Large-scale, on-farm field trials for data-intensive N management:** U of I scientists will discuss a new USDA-sponsored research project in which participating farmers use precision technology to run large-scale, on-farm field trials. U of I researchers hope the project may change the way the world fertilizes its crops.

■ **WILL Ag market outlook panels on corn and soybeans:** The WILL Ag commodity analysts will provide market commentary and strategy during two sessions — one on corn and the other on soybeans.

To register for the conference, visit farmassetsconference.com, or call 217-333-7300. The \$30 fee includes a noon meal.

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