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## Farm Legacy and Succession Planning

Family-owned farms are the heart and soul of farming in America, accounting for 95% of the 1.9 million farms in the U.S.<sup>1</sup> However, both numbers are shrinking according to the USDA, and for the first time on record the U.S. now has fewer than 2 million family farms<sup>2</sup>. Farming is a demanding profession and economies of scale benefit larger farms, making it challenging for smaller family farms to compete and survive. Those challenges are often most difficult during a generational transition. When properly implemented, good farm succession planning can result in minimized disruption to the farm and family when an owner retires, dies, or becomes incapacitated and may improve the prospect that successive generations will be able to continue the family farming legacy.

In this edition of **Financial Planning Insights** we'll highlight some valuable parts of the Farm Legacy and Succession Planning process that can help initiate more in-depth planning discussions on this topic. The included checklists may help you organize your thoughts and make a game plan for addressing your farm legacy and succession goals.

### Vision and Timeline

It's difficult to define success without a vision of what you want for the future. Identifying whether the farm will be continued, sold, or partially transitioned is an important part of that vision. That vision should also incorporate an understanding of when things will take place. Establishing 5 to 10+ year milestones may be helpful for achieving that goal.



### Roles and Readiness



In legacy planning, defining who the impacted family members are is an essential step. That involves identifying which heirs will be directly involved in the farm in the future and which heirs will be non-participating. Plans should account for training those who will take over, as well as documenting who has what rights when a decision needs to be made.

### Transfer Mechanisms

Without an actual transfer of the farm there is no succession. But a successful succession is more than just changing ownership of the farm. The goal is to have that transfer be effective (to the desired *heirs*, at the desired *time*, and in the desired *way*) and efficient (minimized tax and transfer costs). This could include considerations for gifting, discounted sales, and accounting for sweat equity. In all cases, keen attention should be given to the tax consequences, both for the current farm generation and the generation that will be taking over.



### Buy-Sell Agreements



Anytime the sale of a business, including a family farm, will take place at a future point, prudent planning suggests the use of a formal Buy-Sell Agreement. This is true, even when the parties to the sale are related family members. Well-structured agreements will identify the future terms and conditions for the sale,

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including things like a way to determine the sale price, when the transaction should take place, and what triggering events might bring it into action. This helps avoid a forced sale or potential liquidity crisis. It is common for an agreement to be partially funded by maintaining life insurance policies on one or more of the farm owners and/or buyers. Buy-Sell Agreements are complex legal documents that should be explored with the assistance of an attorney who is experienced in their form and function.

### Fairness vs. Equality



The interests and objectives of heirs may differ substantially based on their involvement with the family farm. As such, it is often beneficial to take those interests and objectives into account when planning for a division of family assets. A common statement in farm legacy planning is “fair doesn’t mean equal.” Heirs that may be involved in farm operations might be best suited for receiving farm assets (land/equipment/inventory), while non-farming heirs might be designated to receive non-farming assets (financial accounts, life insurance, and non-farming tangible assets).

### Contingency Planning

“Hope for the best, plan for the worst.” Most of us have heard some variation of that statement. In farm legacy and succession planning it has great merit. Events like disability, divorce, or death can derail farm operations. Having plans in place that address those potential events can help maintain farm continuity and insulate from a potential liquidity crisis that might arise from any of them. Interventions like life and disability insurance are common ways to mitigate some of these risks.



## Farm Legacy and Succession Planning Checklist

- We have a documented vision for the farm’s future.
- We have identified successor(s) and created a readiness plan.
- We have identified how and when the farm succession will ideally take place and ways to help make it more effective and efficient.
- Buy-sell agreement exists and is funded.
- Plan for non-farming heirs (equalization methods identified).
- We have a contingency plan for disability/death/divorce.

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1. U.S. Department of Agriculture National Agricultural Statistics Service. 2022 Census of Agriculture Farm Typology Report. [https://www.nass.usda.gov/Publications/AgCensus/2022/Online\\_Resources/Typology/typology.pdf](https://www.nass.usda.gov/Publications/AgCensus/2022/Online_Resources/Typology/typology.pdf)
2. U.S. Department of Agriculture National Agricultural Statistics Service. 2022 Census of Agriculture. [https://www.nass.usda.gov/Publications/AgCensus/2022/Full\\_Report/Volume\\_1,\\_Chapter\\_1\\_US/usv1.pdf](https://www.nass.usda.gov/Publications/AgCensus/2022/Full_Report/Volume_1,_Chapter_1_US/usv1.pdf)

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