

## Why the younger generation needs a last will and testament

Farm transition specialist Ray Riel discusses what different types of insurance can and can't do for a family and business

By [Matt McIntosh](#)

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*Farm transition professional Ray Riel says that although estate planning is just as important for younger farmers as it is for those that are older, less than 25 per cent of young farmers have a will. This can cause numerous issues for family members and children, left behind. Photo: roberthyrons/iStock/Getty Images*

Mortality is universal. How people prepare for the inevitable is not.

Important as estate planning is for those of more advanced age, it's also important for a successor looking to get more involved in the family farm, particularly if a spouse and children are also in the picture.

But according to Ray Riel, a farm transition professional based in Regina, few young farmers and farm families take time to put plans to paper.

**Why it matters:** Accidents can happen to anyone at any time. Not being prepared for tragedy can cripple a farm business, leading to more hardship and grief for family and friends.

In his 30 years of experience, Riel estimates fewer than one-quarter of farming couples between the ages of 20 and 35 have a will. He outlines estate-planning considerations for young farmers.

## **Know how crippling estate taxes can be**

“Not having a will can literally bring a farm down,” says Riel. “The reality is if you don’t have one, the government has one ready for you.”

Without a will, families of the deceased are subject to rules about how the estate is distributed. A spouse gets a share, but the presence of children means a significant portion is also divided among offspring. If the children are minors, their part of the estate must be converted to cash, held and managed by a public trustee until they reach the age of majority. Overall, this can represent a crippling division and sale of farm assets.

“For example, I worked with a young family with five kids. The parents jointly owned land, but cattle were in the husband’s name. She worked off the farm. He died in a vehicle accident and the kids were minors. Without a will, and with minor children, her accountant told her the tax bill would be as if he had sold the entire herd overnight,” says Riel.

In some provinces, if the after-tax proceeds were \$1 million, the spouse would receive the first \$350,000 of the estate, and the balance would be divided between her and the kids. She would have ended up with about \$450,000. The children’s shares went into a trust managed by the provincial government.

A saving grace, though sad, was the fact that death occurred because of a motor vehicle accident so vehicle insurance paid the tax and provided cash for the public trustee. Had the same person died in the field, the family business would have become untenable.

## **It doesn’t have to be complicated**

Paralysis by analysis can be a problem, in Riel’s experience. He says young families may not implement a will because they can’t agree on a guardian to care for minor children. Spouses get sidetracked and a will gets forgotten.

“In the unlikely event something happens to both spouses, the kids are not going to be left outside in the ditch. Remember, if there is no surviving spouse, legal processes are in place to select a family member to care for minors,” says Riel.

“The document doesn’t need to account for every possibility. Even a simple will can avoid major tax bills, courts and third parties to manage the children’s share of an estate.

“If you intend to pass everything to a surviving spouse, that’s straightforward and inexpensive. You may not have to revise that will until there is an identified successor. “Once a successor is identified, or changes in family dynamics occur, simply reviewing your wills every five years or so can freshen memories and provide clarity for all parties involved, including children who may not be interested in the family business.”

For single individuals or those with no dependants, or a spouse who has no intention to continue farming, a will might consider a strategy incorporating life insurance benefits to ensure a spouse has financial security, provide an ability to purchase farming assets or roll back farming assets to founders. These strategies are available but require coordination of legal, tax and insurance expertise.

## Get farm-specific advice

Business advisors who specialize in agriculture are invaluable. Citing his previous example, Riel says the family's original accountant believed there was no alternative to selling the entire cattle herd to pay the trustee and the tax bill. Fortunately, a more favourable solution was found after consulting with what he describes as an "ag-aware" tax lawyer.

"The agriculture sector has unique legal and tax legislation that governs the transfer of farm property, either while parties are alive or if one has died. It's relatively easy to pass farm property between two spouses, their children, or parents.

"Doing so laterally, to a niece or sibling for example, is more complicated. Getting good ag-aware advice results in a more proactive will, and less of a burden for loved ones," says Riel.

While not having a will can have serious tax consequences, he emphasizes the importance of carefully selecting an executor. The role of executor is often complicated and time consuming, so make the appointment appropriately. The executor should also agree to being appointed and know the location of the will.

"A young farming couple with minor children, but without a will, has no idea how much more burdensome, stressful, and complicated it makes things," he said.

"(It is) a burden sadly born by a grieving spouse and often shared by aging parents. If you farm, have minor children, find an ag-aware lawyer, get a will. It can be as simple as checking the Canadian Association of Farm Advisor's website."

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## ABOUT THE AUTHOR

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Matt is a freelance writer based between Essex County and Chatham-Kent. He is interested in all things scientific, as well as rock n' roll, hunting and history. He also works with his parents on their sixth-generation family farm.