Estate Planning for Farmers & Ranchers

Forewarned is Forearmed

Estate Planning
Estate planning is a process by which you take steps to ensure that your assets are protected, not plundered.

Iowa attorney Melissa O'Rourke, who helps farmers and ranchers protect their assets, emphasizes being specific to reduce the margin of error.

Vague goals leave much to chance, but specific goals are actionable:
- "I want to leave something to charity" » "I want to leave __ percent to my church"
- "I want to help my children" » "I want to leave __ percent to each of my children for ______"
- "I want to help my grandchildren." » "I want to leave __ percent to each my grandchildren to help them with _______"

After recording your wishes, the next step is make a written list of your assets (real, personal, tangible, intangible). Next, decide how you want to handle extenuating circumstances, especially accidents, medical events and long-term care. And by all means, look into trusts.

Three Estate Planning Mistakes Farmers and Ranchers Make

Estate planning can put a hedge of protection around your life's work; it also can ease things for your loved ones by eliminating guesswork. Here are three common and catastrophic events and how to avoid or lessen their impact.

Mistake #1 Inadequate Planning
If you don't decide what happens to your land, livestock, equipment, structures and so forth, your heirs will have to, and if a plan is not in place, the distribution could create strife and the assets could fall into the wrong hands.

Once you have a master plan in place, keep it up-to-date because family events such as births, deaths, marriages, divorces, illnesses, bankruptcies, lawsuits, jackpots, as well as the impacts of changing laws, regulations and requirements can have enormous impact.

Failing to transfer your life insurance policies to a life insurance trust could make proceeds subject to estate taxes. Failing to take advantage of the federal $675,000 exemption puts your assets in harm's way. This can be avoided by putting that portion of the state into an exemption trust (also called credit shelter trust).

Incomplete or missing records can delay distribution as well as subject the estate to unnecessary liabilities. Get all your papers together, make copies and put them in a safe place, like a fireproof safe at home or a safe-deposit box at the bank. Make sure the appropriate person(s) know where these papers are and how to access them.

If you get a safe-deposit box, some states will freeze it upon your death until its contents have been inspected by a state inheritance tax examiner.

Mistake #2 Joint Accounts and Beneficiary Designations
Probate doesn't have to be a given, especially when you put a plan in place to shelter your estate from it. Probate ("the lawyer's banquet") often results in a mere a fraction of your estate actually getting to your beneficiaries. How property is held typically dictates who inherits it, but each estate is unique; in other words, there's not just one way to put barbed wire around your assets, there are many. Learn about them.

Some farmers and ranchers seek beneficiary certainty through joint ownership, payable on death (POD) accounts, transfer on death (TOD) accounts, life insurance policies and retirement accounts. However, these well-meaning actions can be problematic in some instances.

Enrolling jointly owned ag property in programs administered by the USDA may result in subsidies being left on the table. You could lose control of real estate jointly owned with others. Jointly-owned assets are distributed outside of the estate plan and therefore do not get any protection from creditors, predators and lawsuits.

Artificial entities such as corporations, partnerships, limited liability companies or trusts are better options for retaining control and minimizing liabilities. Trusts are effective tools for estate management, yet they are the most underused tactic. Artificial entities, like trusts, are not liable for inheritance taxes because they are not natural persons, although some expire after a set period, like 25 years.

While joint and beneficiary assets are spared probate, they may be liable for other costs and taxes, which affect their net value. Assets liable for

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disproportionate fees can be grossly diminished resulting in unequal distributions. Thorough estate planning can reduce or eliminate this outcome.

Another landmine is putting your child's name on the deed to your home. What does this do? It makes your child liable for gift taxes on the value of your home when you pass. Gifts to your children or spouse of less than $18,000 (as of 2018) are not liable for gift tax, but gifts over that amount are liable. One solution is to convey assets into a trust or, if the value of the estate is not liable for estate tax, bequeath the assets as an inheritance.

Mistake #3 Cash Needs

Hospitalization and long-term care can extract enormous sums from your estate. In addition to these and the cost of living, there may be other expenses (attorneys, accountants, trustees, administrators) that draw down the resources you'd rather preserve.

Estate planning that safeguards against catastrophic or prolonged medical costs can remove or reduce the need for fire sales of land, livestock and equipment. Other options to explore with a licensed professional could include lines of credit, disability insurance, long-term care insurance, life insurance, life insurance trusts, entity planning and more.

What's the difference between estates taxes and inheritance taxes? Certified public accountant, personal finance columnist and author Sally Herigstad says that the main difference between estate taxes and inheritance taxes is who pays.

- Estate taxes are paid by the estate before any assets are distributed to the heirs.
- Inheritance taxes are paid by the person(s) inheriting the assets.

Estate taxes come due nine months after death.

Insurance

Insurance is a crucial strategy for protecting your estate and that means having it in place before it's needed. Because policies differ, be sure you know how far in advance insurance must be put in place before it's used—it is often a number of years.

It takes time to research the types of insurance available and figure out which you want. It's also costly to acquire and maintain, but it can make the difference between keeping your estate and losing it. Get educated, gather multiple quotes, review policies and ask lots of questions. Always consider the source. Find objective third-parties who are not trying to sell you something and mine them for information.

Long-term Care Costs

The following figures, averaged annually across the nation, come from the 2012 Long Term Care Insurance Price Index. They are based on the "standard health rate" which provides a total policy benefit of $164,000 ($150 dollars per day for three years).

- Single, age 55 low 1,764 average 2,007 high 3,446
- Couple, age 55 low 2,080 average 2,466 high 4,824
- Couple, age 60 low 2,794 average 3,381 high 5,376

Consumer Reports published the following cost ranges sourced from Genworth Financial:

- Licensed homemaker services 10-32/hour
- Licensed home-health-aide 12-35/hour
- Assisted living (private room) 2,420-5,720/month
- Nursing home (private room) 4,470-19,375/month

Paying for Long-term Care

To receive the benefits of medical and therapeutic intervention, it's required that you participate, both to ensure your best recovery and to tap the most benefit from your insurance coverage.

Self-pay

Self-pay means using your own resources: your own cash reserves, credit lines, liquidating your assets and so forth.

Private Insurance

Types of insurance and their coverage vary widely, the more coverage you buy, the more you pay. Private insurance is not generally pegged to income and net worth, but it is more costly than government programs.

Long-term Care Insurance

This coverage pays care after a hospitalization, such as in-patient rehabilitation and nursing home care. Some policies certain percentages of costs for certain amounts of time. Some policies help with in-home care.

Medicare

Medicare, the federal government's health insurance program, provides basic coverage (Medicare Part A and Medicare Part B) to help pay for medical intervention that is deemed "medically necessary." If your doctor says you need it, Medicare will cover those in-hospital costs, but not after-care or long-term care.

To qualify for Medicare coverage, you must spend three nights in acute or intensive care at a hospital before going to a nursing/rehab facility. Medicare will only pay for one diagnosis at a time at 100% for 20 days. In some cases, coverage will taper off over another period and then end.

Medicaid

Medicaid is another government program funded by federal and state taxes to help pay for medical intervention for those with very limited financial resources. Medicaid may help with long-term care if you meet their requirements.

Be aware that the paperwork to transition from Medicare and other insurance to Medicaid can take 30 to 90 days.

Veterans Affairs

Veterans who served active military duty may be eligible to receive healthcare benefits and a pension from the US Department of Veterans Affairs. Like Medicaid, most VA healthcare benefits are income-based and designed for those with insufficient personal resources. Most states have VA nursing homes for veterans with disabilities.

The VA encourages veterans to apply for benefits and then work with a VA representative to become eligible; the VA provides these services at no charge. The only legitimate source of benefits for veterans and their spouses is the VA.

Pension poachers posing as VA affiliates charge large contingency fees for their services, these are scam operations. It is illegal to charge veterans for applying or claiming their VA benefits.

There are thousands of non-governmental entities that promote benefits to qualifying vets. Here's how they work, as decoded by a State Veterans Service Officer working for the VA in Wyoming:

"They (VA scammer) 'help' people (vets) by giving them a loan while they start the paperwork. If benefits are not paid, the person ends up owing on the loan (plus interest!!) to the VA benefit (scammer)."

The only safe portals for looking into veterans benefits are:

- United States Department of Veterans Affairs (www.va.gov)
- The Veterans Commission for your state (www.[yourstate].gov)

If you are not dealing with a federal or state agency, you are dealing with a pension poacher—even if they display Better Business Bureau logos and the like.

Assisted Living

Less expensive and less skilled than nursing home care, assisted living is not considered long-term care. It is usually paid by self-pay, private insurance or some long-term care insurance, and the latter will need to be in place for a considerable period before it can be tapped. If you qualify, the Medicaid waiver will cover a portion of your stay and small discounts may also be available through Veterans Affairs.

Supplemental Insurance

Because few insurance plans cover every eventuality, many people opt to add supplemental coverage, of which there are many varieties.

In Summary

The importance of assessing your options ahead of time cannot be overstated.

A key principle in estate planning is that you can't eliminate the big mistakes in your estate plan until you've identified them. Stage a "financial fire-drill" each year to identify changes in the law and gaps in your coverage.

Where there is coverage, there are also requirements to qualify for that coverage. You need to know the rules of the game, all the rules. Stay educated and educate your heirs–before they become heirs!

Note: Elder Law provides stiff penalties for crimes against senior citizens and that includes financial crimes.

- J.E. Holloway

Sources
BlogTaxAct.com
Centers for Medicare & Medicaid Services
Cms.gov
Consumer Affairs
Consumer Reports
ElderLaw.com
ElderCare.com
FindLaw.com
Genworth Financial
Good Samaritan
Iowa State University Extension
LongTermCare.gov
Medicaid
Medicare
Nolo.com
Nursing Home Compare
Reviews.com
TaxFoundation.org
Veterans Affairs
Veterans Assistance
Wealth Counsel