



Succession and Retirement

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Consultant - Succession & Retirement Planning



What We Do:

- Estate Planning
- Transition Planning
- Farm Succession & Retirement Planning
- Entity Planning
- Family Meetings
 - Help with communication



Who We Are

- We serve 37 AgCountry offices in North Dakota, Minnesota & Wisconsin
- Fee Based Consulting – not selling any products.
- Work with your existing professionals – CPA, attorney for legal work, etc.
- “Quarterback” of your plan - Guide



Topics Today

- Update on Estate Tax – Federal and State (MN)
- Update on Gifting
- Outlook for Estate and Gift Tax
- Importance of Written Communication:
 - Estate planning; buy-sell agreements

Estate Taxes

What is the Estate Tax?

- The estate tax is a tax on the transfer of assets at death.
- *Estate tax applies if the total value of the taxable estate is larger than the estate tax exemption amount in the year of death.*
- If the taxable estate exceeds the exemption amount, an estate tax is imposed on the portion above the exemption before the remaining assets are distributed.

Estate Taxes

Is my Estate Taxable?

- Unlimited amount can be transferred to a spouse

Federal Estate Tax Exemption:

- 2020 - \$11,580,000 per person.

Portability between spouses can bring this to \$23,160,000.

For estates that exceed the exemption, the amount that exceeds the exemption amount is taxed at 40%.

Estate Taxes

Federal Estate Tax Exemption:

- **2021** - \$11,700,000 per person.

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State Estate Taxes

How about State Estate Taxes?

- South Dakota, Wisconsin and North Dakota are coupled with the Federal law.
 - No specific / separate state estate tax.
- Minnesota is decoupled from Federal law.
 - Has its own separate state estate tax.

Minnesota Estate Taxes

Minnesota Estate Tax Exemption:

- **2020 and 2021 - \$3,000,000**

+ \$2,000,000+ *potentially* for qualified farm land & business assets.

NO PORTABILITY between spouses – Need to use disclaimer / bypass trusts.

For estates that exceed the exemptions, there is a tax of roughly 16%.

MN Estate Tax: *Non-MN* Residents

May affect non-Minnesota residents if they own real estate in Minnesota:

- Real Estate in Minnesota owned by non-MN residents may be exempt from Federal estate tax but not exempt from MN estate tax
- Also, the additional exclusion for qualified land is not available to non-residents . . . Only available for Minnesota residents.

MN Estate Tax Explained

Minnesota does NOT have portability.

- This is different than Federal estate tax.
- For MN residents, your Will or Trust needs to utilize a special Bypass or Disclaimer Trust to lessen your estate tax burden.

Updates-Gifting

Gifting Rules for 2020 and 2021:

- Annual Exemption: \$15,000 per Person
 - No taxes and no tax return on first \$15,000/grantor/recipient.
 - Each recipient can receive \$30,000 as a combined gift from "mom and dad", for example.
 - If you include your child's spouse, an additional \$30,000 (\$60,000 combined) can be given without any IRS reporting with respect to gift tax returns.

Updates-Gifting

Gifting Rules-2020 (No MN state gift tax)*

Lifetime Exemption: \$11,580,000/person

- If a gift exceeds \$15,000 or \$30,000/ couple, then a federal gift tax return is required.
- No gift taxes as long as the combined total is under \$11,580,000/person.

*MN has a three year "claw back" rule.

Updates-Gifting

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Updates-Gifting

MN has a three year "claw back" rule:

- If the person giving the gift dies within 3 years of making the gift, Minnesota includes the value of the asset gifted (full FMV) when determining taxable estate for Minnesota estate taxes.
- If survives at least 3 years, not included.

Step Up in Basis

- Inherited assets i.e. land, machinery, buildings, investments (non-IRA) receive a step-up in basis to fair market value on date of death.

➤ *Ex: Land bought at \$500/acre is valued at \$4000/acre at death; heirs receive the land with a new basis of \$4000/acre.*

Step Up in Basis

- Assets gifted do not receive a step-up in basis at the date of death. The basis of the grantor is the basis of the recipient:
 - *Ex: Land bought at \$500/acre is gifted to a child and 10 years later the farming parent dies. Child's basis is \$500/acre. No-step up.*

Changes to Federal Estate and Gift Tax

• **Biden Plan**

- Reduce the Exemption to \$3,500,000 per person – 45% tax
- Repeal Step-up in Basis

THIS IS JUST A "PLAN" – NOTHING FINAL UNTIL WHEN/IF IT BECOMES LAW.

Written Communication: Plans Must be in Writing!!

If its not in writing it does not exist!

Examples:

- Buy-Sell Agreement
- A "Complete" Estate Plan

Buy-Sell Agreements

Co-ownership issue:

- Buy-sell agreement in place?
 - Dissolution
 - Death
 - Departure
 - Divorce
 - Disability

WHAT DOES THIS DO?

Buy Sell Agreements

- Determines who can be an owner, when something happens.
 - I.e. co-owner wants to sell their share to an outsider.
- Determines how to value the assets at issue.
 - If a triggering event occurs, how do you determine what the value of the assets are? Need to do so ahead of time.
- Determines how the payment will occur.
 - Cash at closing? Paid in installments?

Components of a Well-Structured Estate Plan

- **Revocable Living Trust / Wills** — Do they reflect your estate tax and transition needs *TODAY*?
- **Durable Power of Attorney** — legal & financial representative
- **Health Care Directive/Living Will** — health care representative
- **Correct beneficiary designations** — Life Insurance, IRAs, Retirement Accounts

Components of a Well-Structured Estate Plan

Proper Titling of Assets:

- This is crucial to assure that the will or trust functions the way you want.
- For example, land held as joint tenants with right of survivorship is not handled by your will.
- For example, if you have a revocable living trust, and your assets are not properly titled / controlled by the trust ("funded"), the trust will not avoid probate at your death.

Revocable Living Trusts

- Revocable Living Trusts can avoid probate if they are properly Funded.

This means that the assets are transferred into the trust.

Most assets need to be transferred into the trust; i.e. land, stock, bank accounts, etc.

- Exception: Qualified Retirement Accounts.

If a trust is not fully funded, it will go through probate at death.

Components of a Well-Structured Estate Plan

Ensuring the plan works as you intend:

Ensuring the plan is updated, well thought out and tested is important, especially when a next generation farmer is taking over.

- Run the plan through your balance sheet:

If there are buyout provisions, can the farm afford them?

Importance of Communication

- Communicating why you've set up your plan the way you have is every bit as important as how you've set it up.

This is true for estate planning, retirement planning and transition planning.

Thank you for Attending!

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