



# Succession and Retirement Planning

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# 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:

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

**Portability between spouses can bring this to \$23,400,000.**

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

# 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:

- **2021 - \$3,000,000/person**  
+ \$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 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-2021 (No MN state gift tax)\*

Lifetime Exemption: \$11,700,000/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 \$11,700,000/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 (two ideas)

- Reduce the Exemption to \$3,500,000 per person – 45% tax (2009 level)
- Erase the Trump rules and reduce exemption to 2017 levels which were \$5.5 million and adjust for inflation—40% tax rate.

## Step up loss???

- Repeal of the 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
- Machinery transfer plan
- Rights of Refusal and Options to Buy and Rent

# 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.
- Good communication is the glue that keeps you together.
- Poor communication is the dynamite that blows you apart.

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

Thank you for Attending!

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