Planning for the 5 D's of Farm Transfer Failure

Death, Disability, Disaster, Divorce, and Disagreement

Part 1: Death, Disability, Disaster, Divorce

Even the best plan will fail if the Dreaded 5's make an unexpected appearance. Unfortunately, people tend to plan for the best scenario, not the worst. Here are a few tips to help you expect the unexpected, or at least minimize the effects.

Death: While the whole point of Farm Succession Planning is to include the inevitable passing of the current generation to the next generation, early death of a parent, or an untimely death of a child can complicate Succession Planning. Some questions to consider:

• What will happen if a key family member dies before the succession plan is implemented?

• Will off-farm options (like life insurance) help ease the cost or tax consequences of an untimely death?

Disability: Disability can strike the parent generation and the child generation, with different consequences. Farming is one of the most dangerous occupations in America, but disability can come in many forms.

• Actively minimize farm-related risks by making us of modern risk assessment tools available from risk planners, insurance companies, and equipment vendors.

• Determine whether Aincome protection (disability insurance) will be a cost-effective tool.

• Cross-train the next generation, so that some continuity can be maintained in the event of the disability of a key employee or child.

Disaster: Natural disasters (fire, tornado, flooding), and man-made disasters (voltage strike, environmental spill, livestock virus outbreak) have widely-varied sources, but equal devastation. Not only can farm income be compromised, but farm infrastructure can be destroyed or damaged beyond repair. Heavily-leveraged and poorly-protected farm operations can be a single disaster away from losing the farm.

• Be aware of the changing legal and regulatory environment, both from a disaster recovery and from a compliance standpoint.

• Consider both prevention management and crisis recovery plans to prevent complete loss of the farm in the event of a disaster.

Divorce: Death is inevitable, but divorce is much more common than we like. In a Farm Succession Plan, you need to consider your spouse, your children's spouses, and your grandchildren's spouses. Even with a Prenuptial Agreement, there is no guarantee that your (or your child's) ownership in a farm operation will be secured from a divorce settlement. At the very least, the divorce of a child could cause an expensive buy-out of a spouse's legal interest.

• Encourage your children to have a prenuptial agreement. Make sure they understand the nature and importance of their ownership in the family farm operation.

• Realize that in the event of a divorce, part of the farm resources may be diverted to buying out a divorcing spouse.

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Part 2: Disagreements

Of the 5 D's, the most heart-breaking is Disagreement. At its worst, disagreements can last for generations, keep families a part, and destroy a family farm. **In multi-generational farm operations, there are two types of disagreements**: Disagreements between the on-farm and off-farm family members and disagreements between on-farm and on-farm family members. While disagreements are a natural part of family interactions, there are ways to watch out for stress points that can devolve into serious family conflict.

Disagreements occur as families grow in number. When one farm's resources are not sufficient to support all the farming members, disagreements about management of the farm's resources readily occur.

Disagreements occur as families move off the farm. When generations no longer have a strong connection to the family farm, they do not understand the financial risk and large dollars involved in managing a farm business. If they have personal consequences on their tax returns, they may feel that the farm is more of a burden than a blessing, and begin to resent the farm or an on-farm sibling. They may also see an on-farm sibling as having disproportionate favor or benefit by living on the farm, and resent the perceived closer relationship between the on-farm sibling and parents.

Disagreements also occur when one generation begins transferring assets to the next generation. The speed (or lack of speed) of transfer, the allocation of farm assets, and the expectations of how the next generation should use the assets can cause friction within a family.

Resolving Disagreements

Communication is the key. Parents should strongly encourage their children to speak up about their expectations and goals in participating in the family farm, even if it means that a child wants no part of the family farm. In planning transfer of the farm, parents and on-farm children need to clearly understand the financial implications of continuing the farm operation, either with non-farm sibling, or by cashing out non-farm siblings.

Develop a path back. If the farm succession plan does not work, or if it causes unintended consequences or misunderstood expectations, be prepared to unwind the plan and move in a different direction. There always needs to be an out for family farm succession plans that are not working.

Emphasize the family bond over the business. The farm is just real estate and equipment. Your family is irreplaceable. When family members feel that the farm is more important than the relationships, it is more difficult to resolve conflicts.