

# STARTING WITH WHAT YOU WANT

A farm owner's personal values will ultimately drive farm transfer decisions, and whether another – often younger – farmer will have the opportunity to farm that land. Therefore, the first question you should ask yourself “What do you want to see happen to your farm?” This question comes before considering the situation through any lens of critical analysis of goals, resource evaluation, and the laws that govern the transfer of wealth.

This question – what do you want? – like the farm transfer process itself, touches on a lot of seemingly different things that one may find important: keeping family harmony, passing on a farming tradition, retaining hard-earned wealth for heirs, and sometimes, simply not paying taxes to the government. Sometimes families find that their collective wants for the future of the farm, while not necessarily conflicting with each other, will nonetheless require modification and compromise.

For example, you may simply *want* the farm to “stay in the family.” What do you mean by

this statement, and more importantly, *why* is this important to you? Often that “why” is simple family heritage. Many families in the Southeast can trace their lineal ownership back to a grant from King George III, and perhaps this bestows an obligation on each generation holding title to the land throughout the years to pass title to a family member, and the desire to pass on the land to lineal heirs to continue a tradition will drive many owners in their decision-making. Will it satisfy this obligation if one lineal heir gains title to the land? Or a non-lineal family member (i.e., a nephew or niece) If this is done, what wealth will be transferred to the other heirs?

There may be another value that drives your decisions: wanting your children to get along with each other after your decisions on the farm have been made, and ultimately carried through either by sale, gift or inheritance. To accomplish the desire that the farm land stay in the family, it may be impossible to divide it equally among heirs. Indeed, as noted in Section Two *How Do You Own Your Property?*,

creating ownership interests among multiple heirs may endanger the ability of an heir to effectively manage and earn income from the land. But with land as the highest value asset in most families, there are often few other assets to balance the overall estate equally among all the heirs.

When transferring a farm intact across generations, heirs are more often treated fairly than equally. “Equal” normally means an equal distribution of dollar value of the parents’ wealth. “Fair,” on the other hand, considers the totality of the circumstances in making distribution decisions where the heirs’ absolute right to the wealth is modified in pursuit of certain goals (such as securing a farming heir’s access to the land).

To develop a vision for the future of the farm, it is important that all family members share what they

want to happen to the farm. Sometimes the response to such an exercise is apathy. If the apathy about the future of the farm comes from both Mom and Dad -- “You kids figure it out” -- it is probably best that

their estate plan divides up the assets -- including the landholdings -- equally. Nonetheless, your goals for the farm - perhaps that it remain in production - may cause you to consider transferring it outside the family.

The worksheet *Rating Family Values* consists of a number of statements to get you thinking about what is really important to you, and more importantly, why it is important. Each statement has a number value attached, to rank importance, to provide a framework to prioritize your values. What will make tough decisions easier for family members to process will be openness in the process, where there will be no surprises that lead to distrust and ill-will among heirs. Your answers and comments to the questions will form the basis for shaping and sharing your decisions with the family. It will also help your advisers understand which planning tools are appropriate for you. Two additional worksheets offer an opportunity to assess your comfort level with certain decisions, and a chance for Mom and Dad to sketch their vision of retirement.

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The underlying theme of this workbook is that there are no easy answers. Fortunately, there are legal tools available - such as business entities and other agreements - where access to income can be assured, along with a stake in the value of the land. Fairness will lie in how decisions balance the abilities of all heirs to access that wealth in the future. Fairness is also built into your family's understanding of the distribution decisions in your farm transfer plan.

The sooner the family can gain common understanding of each other's views of "fair," the stronger the process will be. What will make tough decisions easier for family members to understand will be openness in the process, where there will be no surprises that will lead to distrust and ill-will among potential heirs and successors.

Ultimately, whatever the various motivations, all heirs must recognize that these decisions have been tackled by generations before them, and now ultimately it is the title holders - Mom and/or Dad - who must decide. In the event they cannot recognize this, you may find that the best course of action is to keep your plans to yourselves.

