

Women in Agriculture

Stereotypes Are A Thing Of The Past -
Spousal Succession Is A Thing Of The Future!



The Farm

- The farm is more than property - it is a set of values
 - A way of being and the sense that goes with it
 - It applies more than just the business of farming
 - So rightly or wrongly I will choose to call it the family farm. This still does not explain it!
- The farm is about being productive a sense of accomplishment. It is creative, industrious it is a vast environment of opportunity!
- It is about the family working together and each member having a part to contribute as an individual and as a team.
- It is about the family clinging together no matter how dysfunctional they may be.
 - **QUOTED from the FARM POEM – Author Unknown**

Are you a family farm or a farm family? As in the poem... you better be BOTH!

BUSINESS

Farming is primarily an **equity game not an income one.**

The **rules** of business have to apply.

Operational clarity needs to occur.

Operational equity is for living **NOT** estate distribution.

FAMILY

Timing is not fair **opportunity is.**

A "farm child" does not exist a **farming partner** who happens to be a child does.

Values and heritage are core to our culture..

Success **is defined by our children** not by US..

Family Farm Succession

- ▶ **The good news...**

- ▶ Your children want to buy the farm from you!

- ▶ **The bad news...**

- ▶ They want to do it with your money!!!



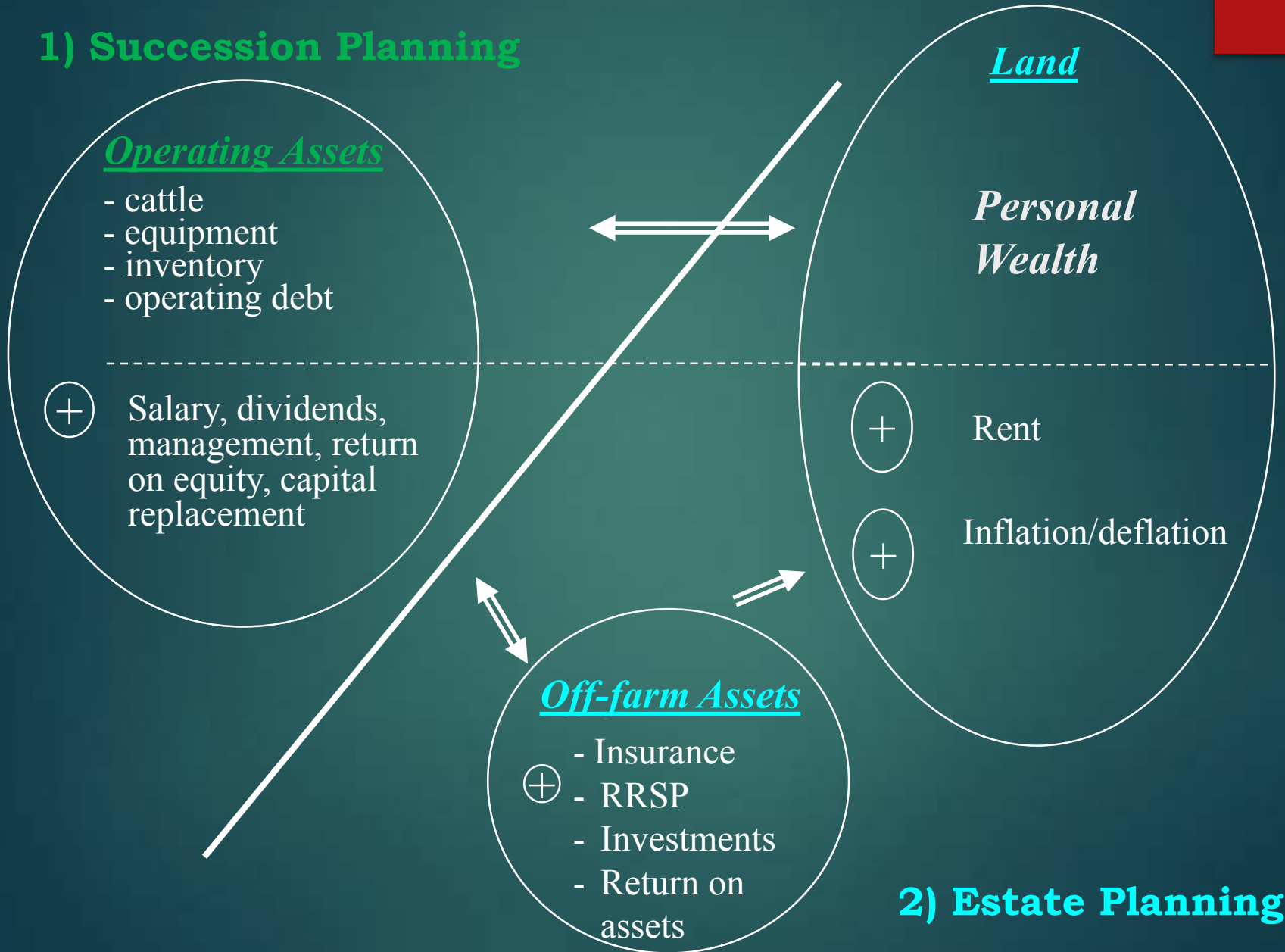
FARMING TRADITIONS



● Generation to Generation ●

The Family Farm - A Real Puzzle

1) Succession Planning



Estate Planning... Famous Will Clauses

*If I die before my spouse, I leave everything to **him**, but if he should remarry, I then leave everything to his new wife... with **my sympathies!***

*I leave the land equally between my children and they agree **never to sell it and always get along!***

Critical Question

If you have a two generation family farm with an active child farming with you, under your WILL is ***any of your farm land going to a non-farming child?***

- Yes
- No

Will Clauses:

Land

- ▶ **Conditional bequest... child does not want land**
 - ▶ I leave the land to Bill on the condition that prior to receiving clear title, a mortgage be placed on said land for the sum of \$X, payable over Y at Z% to his sister Susan.
- ▶ **Conditional Bequest... child wants land**
 - ▶ I bequeath the SE17 to Susan on the condition that she allows her brother, Bill, to lease said land for 25% of crop insurance index per acre, per year for 10 years.

Will Clauses Cont'd...

- ▶ If Susan wants to sell...
- ▶ Consider option to purchase as well at an in-family discount...
 - ▶ **75% of appraised value not fair market value.**
This discount is only during the lease period!!
- ▶ Note: **reciprocal right to Susan** on same acres as well!
- ▶ **Note: I do not like rights of first refusal!!!**

Control Mortgage...Trust Idea

- Why not give the farm land OR corporate shares to a child, but place the mortgage or shareholder's loan into a ***discretionary family trust***?
 - The beneficiaries are ***all*** of your children.
 - If the son sells the land/corporate (land)/shares that he inherits within 10 years, the loan is called in and cash is distributed to the off-farm siblings.
 - If not, the farm child receives the mortgage and debt is cancelled.
- 

Ownership Transition: When Alive



Why Wait Until You're Dead?

- ▶ Equity transfer is not the issue **BUT CONTROL** → 5 D's
- ▶ 1. **Divorce**: Matrimonial property issues
- ▶ 2. **Disposition**: Kids sell and keep the "cash"
- ▶ 3. **Debt**: If sold below FMV, they add more debt
- ▶ 4. **Death**: Child dies first, now what?
- ▶ 5. **Dementia**: What happens if you are no longer you!!



D

Joint Property → Joint Tenancy Changes



➤ A transfer into joint names is presumed NOT to be a gift anymore → No automatic survivorship!

- **Parents:** Between Spouses → automatic survivorship
- **Child:** Is deemed to be a trustee for the Parents
 - No beneficial interest rests with the child

Disposition Tax Rules

- A transfer into joint names is a disposition *unless documented otherwise...*
 - **Parents** need to report disposition in their tax return
 - Can elect at ACB ... Rollover
- Decide if any beneficial interest is to transfer during your lifetime!!

Life Estate / Remainder Interest

- *Effectively creates a “co-ownership” of the property*
 - **Life Estate holder:**
 - Has the right to use, enjoyment of property & income for life
 - **Remainderman holder:**
 - Titles merge upon death of Life Estate holder
 - Title belongs to remainderman and forms part of his/ her estate upon their death

Children

Parents



Life Estate / Remainder Interest

- ▶ **Co-ownership Issues** – On Home Quarters... need to consider who is responsible for:
 - Repairs
 - Maintenance & upkeep
 - Insurance
 - Capital costs
 - Rental Income etc.



Transferring Land While Alive Cont'd

➤ Sale of Land to Child

- Parents exchange land asset for security asset (promissory note and mortgage security)
- Payments to parents = **tax free** if use capital gains deduction
- **Affordability:**
 - Take FMV x (50 to 75%) over 20 years at no interest
 - equals 1 to 1.5 times cash rent!
 - **RESULT: convert cash rent to tax free income!**

Transferring Land While Alive Cont'd

- Capital gains deduction does not cover enough land through mortgage take back.
- Farm children very frustrated as no freeze in value and land keeps exploding.
- Parents lose mental capacity
- Surviving Spouse changes her mind.

**Expectation
feeds
frustration**

Repurchase Options: New Idea...

Remember a sale burns up the capital gains exemption. **Do not use unless receiving REAL MONEY!**

Separate Agreement: **Repurchase if ever sold or a legal action like a divorce ensues.**

- Child keeps the equity on the repayment of the loan and land value increases

How about a repurchase option at the same price as sold?

Recommendation: **set time period only!**

Transferring Land



▶ Example:

- Sell 320 acres with a FMV of \$1,000,000
- Purchase price \$500,000
- Assume ACB \$150,000
- Capital Gain \$350,000

▶ **Grant an option to parents to repurchase** said land at \$500,000 if ever sold within the next 10 years.

▶ **Is this fair?** Half price and maybe no interest charged!!

LAND...HOW Should I Buy It?

After tax analysis.... WORST CASE SCENARIO

1) **Personal**

- (top tax rate of 40%)
- $\$4000 / .60$
- **$\$6,666.00$**

2) **Corporate SBD 11% rate**

- $\$4,000 / .890$
- **$\$4494.00$**



LAND...HOW Should I Buy It?

After tax analysis....

- **Personal**

- (top tax rate of **40%**)

$$\$4000 / .60 = \$6,666.00$$

- **Corporate**

- SBD **11%** rate

$$\$4,000 / .89 = \$4494.00$$

COST: \$2,171.61 ACRE i.e. 54% MORE!

- Who can afford to buy land? → Companies can!
 - Companies have leverage through **tax dollars saved.**
- Personally owned for **5 years ok** - then flip into a Corp!
- We have to know how to **use a corporation to buy land!**

Sell Land to Corporation

- Sell the land to your company, claim your capital gains deduction, and create a tax free shareholder loan!
- The loan can be secured by first mortgage on land.
- **Note: Cannot do this on preferred shares!**
- Land is not trapped as new separate land companies can be created.



Shareholder Loans



1. Create a **tax free pension**.
2. Remove excess cash and investments to **purify a company**.
3. Allow for parents to purchase **personal assets with corporate cash**.
4. Create **an off-farm asset** for estate planning.
5. Allow parents to **help other children** before they are 60!
6. Can **extract land later** at no tax cost!

BECOMING A **CREDITOR**

An **Evolution** In RETIREMENT.



THE TIME HAS COME...

MOM Convert Your Preferred Shares Into A Loan!

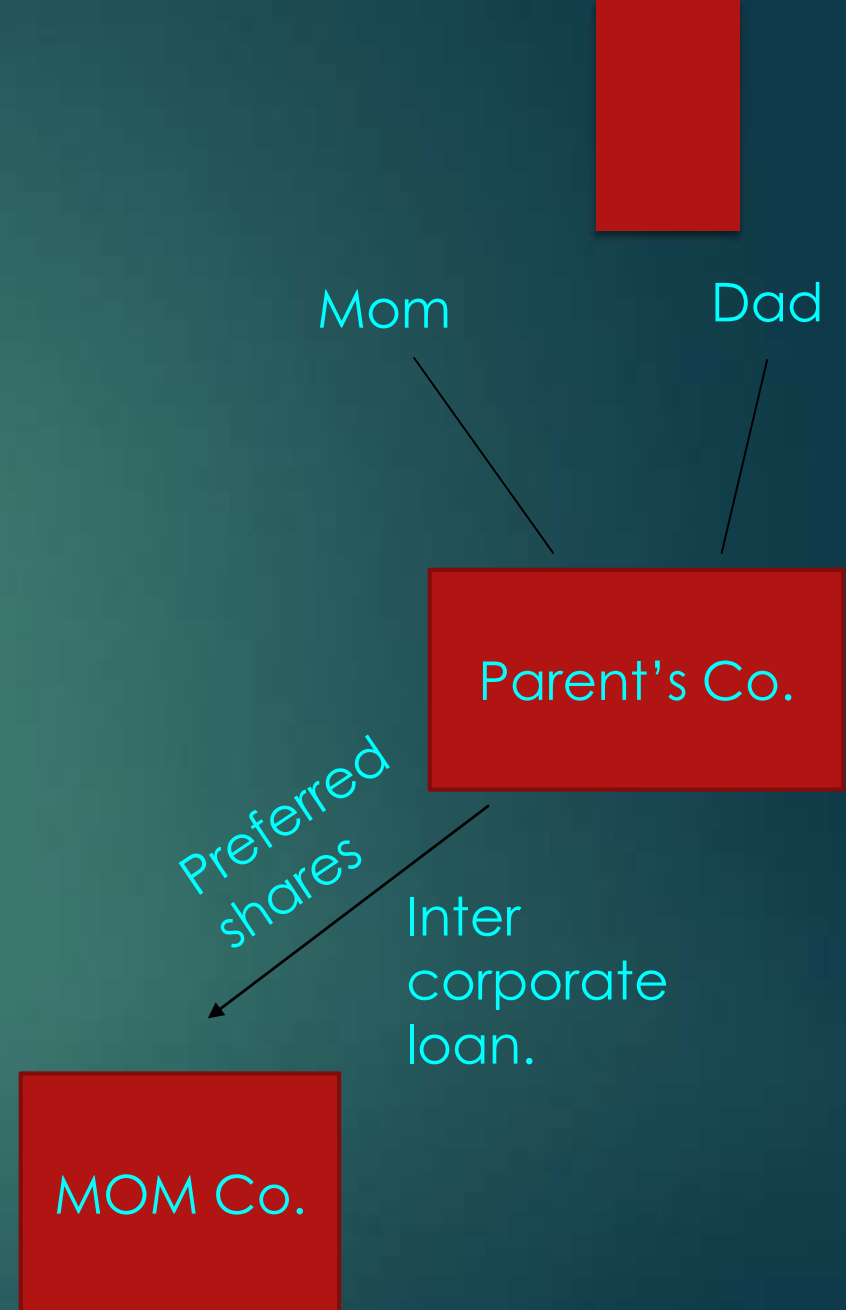
Questions?

1. Do you want to be in business with your farming child?
2. Do you need your equity paid out from the farm business?
3. Do you still want to be in debt as a shareholder?
4. What happens if you become **not you!** (i.e. mental impairment)

IDEA: Would you rather be a creditor with **security or a shareholder?**

Options

- ▶ Move Mom's shares into Mom Co.
 - ▶ **NOTE: not assets but just her shares!**
- ▶ Redeem shares and create an inter-corporate loan.
- ▶ Secure on land if available.
- ▶ Parent Co. owes Mom Co. \$1,000,000 - starts paying her pension.
- ▶ Mom is no longer a shareholder of Parent Co.
- ▶ Dad dies & leaves shares of Parent Co. to farm child.



What Have We Done?

- Mom has **retired** and now her husband owes her for her equity in the family farm corporation.
- Mom's Co. receives **tax free repayment** of the inter-corporate loan from the original farm corporation.
- She pays **tax as a dividend** when the funds are extracted from her company.



What Else Have We Done?

- Mom has a **pension** with terms and if required a certain interest rate.
- **Repayment terms** are set in the agreement.
 - Perhaps repayment tied to cash rent on a per acre basis.
 - Consider lump sum as well.. example 2.0 times annual repayment once every 5 years.
- Her corporate shares can be rolled over to **non-farm children** for estate planning purposes.
- Dad can leave his shares to his active farming child if he does not want to be a creditor.
- Can finalize the plan in the same way for when dad wants to become a creditor as well!!

What Else Have We Done Cont'd?

- Created certainty in the roles and **expectations of each generation.**

- Retirement Co. could also be:
 1. Be transferred **to all children.**

 2. Transferred back **to farm child.** Pension is NOT transferable. Upon amalgamation debt disappears.

 3. If off-farm children are to receive cash from the business - the deal is already set.

Tax Planning Results



- ▶ **Capital appreciation** is now going to Farm Co. as now solely owned by the farm child.
- ▶ Parents **no longer liable** for expansion debt.
- ▶ Parents receive their promissory **note back.**
- ▶ Inter-corporate loan secured by way **of land mortgage.**

EXTRACT INCOME → TAX FREE

- 1. SELL personal land to Retirement Co.**
 - ▶ The farming child is in a sense buying Land.
- 2. Create shareholder loan**
 - ▶ The parents are leaving the shares at Death or before with the intercorporate loan being cancelled.
- 3. Leave Retirement Co on Death or before with land to farming child and eliminate intercorporate loan BUT**
 - ▶ **WHY DO THIS:**
 - ▶ **Parents want to control land and not sell directly to Farm child Company.**
- 4. Leave shareholder loan to off-farm children. With terms!**

The Ten Commandments of Family Farm Succession & Estate Planning



I believe these will relate to your family farm succession, retirement and estate plan!

1. The parents will die with land but not all!

- I have found that every parent must own some land during their lifetime and up to their death.
- This creates security and eliminates reliance on the second generation for funding 100% of the parent's retirement and/or needs for other capital.

2. Separation of the business of farming - from the personally owned assets must occur.

- **Remember land is a personal wealth asset not a farm asset.**
- Redemption of the parents' equity must occur over time.
- Operational equity in inventory and equipment will **NOT be left to non-active farm children.**
- **PERIOD... You cannot buy a "tractor twice!"**

3. Recognition that **farming is primarily a business equity endeavor vs. a personal income undertaking.**

- Priorities in life have to center around this truism.
- In addition the most important ratio in family farms is not return on assets (R/A); but rather recognition and appreciation!

4. **Access to land is more vital than land ownership** in today's farm operations

- Land leases shall be created during a parent's lifetime and through their Wills; **that regardless of who owns their land into the future**, those beneficiaries are bound by these agreements.

5. **In some fashion, the "freeze" of land values should occur.**

- This is the most difficult strategy to implement.
- In other words, does the parents' land equity increase only to them during their lifetime?

6. Remember: **VALUE = CASH + EQUITY.**

- This equity can come **from the operating entity and/or land equity.**
- Each farm family is unique in this regard, but this must be addressed in a formal business succession plan.

7. In multiple family farm businesses, distinct profit centers can be created but inter-corporate services need to be tracked and accounted for between the companies.

8. **Creditor vs. Shareholder.**

- Do you want to be a shareholder with your children at age 70 plus or just a creditor?
- I am finding that the final step in business succession should focus on this question.
- Remember I am talking about succession not estate planning!

9. A dollar is not a dollar!

- In other words, is a dollar of equipment equity the same as a dollar of cash or a dollar of land?
- First of all, the valuation of fair market value has to occur on an after tax value basis.
- Equipment depreciates and land values can fluctuate.
- Cash, on the other hand, is liquid and has a finite value with no risk.

10. Transformational Wealth

- This term I coined, is trying to provide a different view on distribution of one's wealth among family members.
- Simply adding up the monetary value of assets less liabilities is an accounting equation, not a measure of transformational wealth.
- Receiving cash early for a non-farm child may make a **significant difference in their lives** compared to receiving cash 25 years later!



Good luck
on your journey...

Merle Good

(403) 637-2253

GRSConsultingltd@gmail.com

Box 404

Cremona, Alberta T0M 0R0