Estate

Disposition of property at death
Tends to be thought of as synonymous with money.

Succession

Ownership & management
Smooth and efficient transition of ownership, leadership, and management of a business to the next generation.

Legacy

Captures all facets of a person’s life.
Family traditions
Accomplishments
Impacts
Non-Financial = 10X More Important Than Financial

Family traditions
Accumulated wealth
Reputation
Accomplishments
Impacts

Non-Financial = 10X More Important Than Financial
Common Fears

- Enough Money In Retirement
- Talking With Spouse & Children
- Who Will Take Over
- Choosing Successor
- Estate Taxes
- Losing Control
- Losing The Ranch
- Nursing Home Costs

Is This You?

Bye, Honey!

I am headed to the lawyer to get an estate plan.
Who Are You?

- Pedigree
- Personality
- Family
- Values & Beliefs
- Personal Stuff
- Community Service
- Religion/Faith
- Traditions
- Farm/Business Wealth
- Everything Else
- Making Up YOU
Who Are You?

Lasting Legacy

Communications

1. Values and Life Lessons
2. Personal Possessions of Emotional Value
3. Instructions and Wishes to be Fulfilled
4. Financial Assets to be Executed
Family Communications

Talking WITH your family

What does each person want to have:

- ...happen to the farm/ranch
- ...of your business assets
- ...of your personal assets
- ...for you

~ openness ~
~ honesty ~
~ listening ~
**Location** – where does the conversation take place?

**Problem**

*Family system overlays the business conversation*

**Alternative**

*Neutral, business setting*
Effective Communication

Family Council Meetings
- All family members
- Listen to views on issues that impact the family

Family Business Meetings
- Active family members
- Dedicated forum to discuss family issues

Announcement
Agenda
Assignments
Setting
Roles of Participants
Facilitator
Publish Minutes
Follow-up
Estate Planning

1. Where are you?
2. Where do we want to go?
3. How can we best get there?
Q1: Where Are You, Personally?

- Family — spouse, children, special needs dependents
- Legal docs — will, advance directives, powers of attorney
- Non-farm assets/liabilities — investments, pensions, personal property, retirement accounts, debts
- Insurance — life, assisted living, other
- Personal possessions of emotional value
- Gifting plans

Location & Access
Q1: Where Are You, Business?

- **Financial** – net worth, cash flow, profitability
- **Documents** – titles, easements, leases, insurance policies, tax returns + depreciation schedule, appraisal
- **Accounts** – bank, investment, brokerage, charge
- **Legal structure and ownership**

*Be transparent*

*Location & Access*
Q2: Where Do You (and your family) Want to Go?

- What do you want, what does your family want
- Ultimate goal for land, for the business(s)
- Spouse — which dies first, financial needs of surviving spouse, re-marriage
- Children — desires to farm/ranch or own land, family needs,
- Citizenship
- Timeline

What do you want for a house?
Q3: How Can You Best Get There?

- Competent Team (attorney, accountant, financial advisor, facilitator, coach, insurance agent, lender, other)
- Family communications
- Do the necessary work
- Be honest... with yourself, your family, your advisors
- Implement the plan

Let the “pros” build your house.
Points to Consider
<table>
<thead>
<tr>
<th></th>
<th>CURRENT (2021)</th>
<th>FUTURE (current law expires 12/31/25)</th>
<th>FUTURE (possible legislation)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estate tax credit</td>
<td>$11.7 mill</td>
<td>$3.5 million (approx.)</td>
<td>$1 million? $3.5 million?</td>
</tr>
<tr>
<td>Lifetime Gifting Exemption</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Annual Gifting</td>
<td>$15,000</td>
<td>$15,000 (approx.)</td>
<td></td>
</tr>
<tr>
<td>Portability</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes?</td>
</tr>
<tr>
<td>Basis</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>➢ At death</td>
<td>Step-up Same</td>
<td>Step-up Same</td>
<td>Capital gains on assets</td>
</tr>
<tr>
<td>➢ Before death</td>
<td>Same</td>
<td>Same</td>
<td>transferred?</td>
</tr>
</tbody>
</table>

*Will change, but how?*
Ownership vs Management Succession

Ownership
- Owns assets and net worth of the business.
- Affected by the financial performance of the business.
- Requires capital.

Management
- Runs day-to-day operations.
- Responsible for financial performance of the business.
- Requires the right skills and competencies.

Ownership = Land
Management = Livestock, Machinery

Ownership & Management = One and the Same

Who wants to farm?
Who wants to own a farm?
What is Fair?

**Equal**
- All persons are treated the same
- This could mean equal number of items, dollar value, or emotional value

**Equitable**
- Takes into account differences
- These differences could be age, gender, needs, care giving role, and other distinctive differences
### Rental Income

<table>
<thead>
<tr>
<th></th>
<th>Amount</th>
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<tbody>
<tr>
<td>Ag Land</td>
<td>$6,000</td>
</tr>
<tr>
<td>Hunting &amp; Fishing Rights</td>
<td>$2,000</td>
</tr>
<tr>
<td>Wind Tower</td>
<td>$4,000</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$12,000</strong></td>
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</table>

### "Company" Expenses

<table>
<thead>
<tr>
<th>Expenses</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Real Estate Taxes</td>
<td>$1,500</td>
</tr>
<tr>
<td>Insurance</td>
<td>$1,000</td>
</tr>
<tr>
<td>Legal &amp; Accounting Fees</td>
<td>$1,500</td>
</tr>
<tr>
<td>Other</td>
<td>$500</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$4,500</strong></td>
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</tbody>
</table>

### Profit

- **Gross Rents:** $6,000 + $2,000 = $8,000
- **Net Rent:** $8,000 - $2,500 = $5,500
- **Profit:** $7,500
- **Distribution to Individual Owners:** $2,500
Estate? Succession? Legacy?

If you don’t have a plan... the law provides one for you.
Letting Your Heirs Worry About It

• Default under the law tends to be sale

• Sale is especially imminent if:
  – Parties don’t agree
  – Property is not easily divisible
Proactively agree to a successor

- Don’t assume who will be your successor
- Mentor/coach you successor
  - Explain
- Be open to new ways of thinking
- Don’t treat your successor as an employee

Transfer knowledge in order for success
What does your retirement look like?
Long Term Care

Pay for it, if you need it

Long-Term Care Insurance

– Colorado & Nebraska have partnership plan that match and protect assets which enable dollar for dollar protections to maintain assets
– Not all plans meet the criteria of a partnership plan—ask!

Qualify for Medicaid – “safety net”

– Transfers for less than “fair market value” within 60 months of Medicaid application (“Look Back” period) are considered available resources and penalties assessed

$8,000 per month
$100,000 per year
Timing of Transfers

1. Before Death
   - Older generation has more control of process.
   - Younger generation gains control of assets.
   - Taxes?
   - No step-up in basis

2. After Death
   - Sudden transfer of assets and management
   - Estate taxes?
   - Step-up in basis for assets
Multiple Entities

- **Land**
  - Dad 50%
  - Mom 50%

- **Mach/Animals**
  - Dad 45%
  - Mom 45%
  - Son 10%

- **Operations**
  - Dad 50%
  - Son 50%

- **Land**
  - Daughter 1 – 20%
  - Daughter 2 – 20%
  - Son – 80%

- **Mach/Animals**
  - Son 100%

- **Operations**
  - Son 100%
Conservation Easements

Possible source of cash

- Sale of assets
- Forever commitment
- New/additional partners

May limit opportunities
Gifts of Life Insurance

Heir buys life insurance policy on life of “Donor”

- Donor gifts amount of premium (< $15,000).
- Heir gains tax-free access to proceeds from life insurance.
- Heir can borrow against cash portion of policy.
- Provides protection from creditors, divorce, and bankruptcy.
Life-time Trusts & Leases

Life-time Trust
- Asset owned by trust for specified, beneficial use
- Revocable, generally
- Example: Mom transfers ownership of her house to trust and continues to live there until her death or other specified time.

Life-time Leases
- Asset leased until death or other specified time
- Example: Dad transfers ownership of pasture to successor; leases pasture for 10 cows and 1 bull (option is to lease particular pasture) until his death or specified event.