

Passing it On: An Estate Planning Resource Guide for Wyoming's Farmers and Ranchers



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This handbook is intended to provide general information on estate and succession planning. It is not intended to substitute for legal advice.

The handbook is a publication of the Wyoming Agriculture & Natural Resource Mediation Program in conjunction with the University of Wyoming Cooperative Extension Service. For more information, please contact Lucy Pauley at (307) 777-8788 or lpaule@state.wy.us.



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Chapter 1. INTRODUCTION





Introduction

Estate planning is a process that is often avoided because it deals with issues regarding people, property, laws and taxes; issues that family members may not be ready to think about. But planning an estate can benefit every agricultural family. The process of creating a plan reduces the stress and uncertainty of not talking about important issues. We know that estate planning can be confusing and broaching the subject can be a difficult conversation to start. This workbook is designed to help you and your family begin talking about estate planning and get the process started.

In January 2006, staff of the Wyoming Agriculture & Natural Resource Mediation Program and University of Wyoming's Cooperative Extension Service met to discuss putting together an estate planning handbook for Wyoming's agricultural producers. The Mediation Program was receiving numerous calls from agricultural families looking for assistance. Some families were looking for a mediator to help them bring the family together to discuss estate planning, other families did not know how to get started with the process and were looking for resources. There was a lot estate planning information out there, but not a lot that was specific for Wyoming ag producers. That became the primary goal for "Passing It On," to consolidate information about estate planning and make it specific for Wyoming's farmers and ranchers.

In 2010, the authors decided to update the handbook with more current information on taxes and estate planning tools. Additional information including articles on selecting advisors, funeral planning, and more were added to make the resource more complete.

The Extent of the Issue

- A 2003 study by the GE Center for Financial learning found that only 40% of Americans 18 or older had either a will or a revocable living trust in place to distribute their property at death.¹
- A 2002 Nebraska Rural Poll of state residents found that nearly 30 percent of farm, ranch and business owners in Nebraska did not know what would happen to their operations when they retired.²
- Only one percent (1%) of family-owned farm and ranch businesses in North America are transferred to a third generation and 30% of all family-owned farm and ranch businesses have not considered a successor.
- Another recent survey shows that more than fifty-eight percent (58%) of farm and ranch business owners list inadequate succession planning as the biggest threat facing their businesses.³

The personal side of estate planning often worries people the most, particularly how to have a productive conversation. Robert Fetsch, Colorado State University Cooperative Extension family development specialist, lists ten general ways family members can sabotage the development or implementation of a farm or ranch transition plan:⁴

- Procrastinating
- Avoiding planning or making decisions
- Refusing to discuss the subject of estate transfer
- Blaming others for problems; staying angry
- Doing all you can to block the younger generation from any involvement in goal setting or decision making until they are middle aged
- Refusing to listen to other family members' viewpoints



- Holding total control of the family business
- Assuming others know what you want (not discussing your wishes about transfer with family members);
- Making sure all your sense of worth, your identity, and life's meaning come solely from the business; resisting transfers to the next generation. (This way they have the least influence and the most stress); and
- Not paying attention to wake-up calls like a farm/ranch accident, illness, death, or major choice point by offspring (e.g., an opportunity for them to take a job in town).

John Gromala, an estate planning mediator, points out that even those who have estate plans often have not had serious conversations with family members regarding their content.⁵ He notes that heirs are rarely consulted. Moreover, he writes "it is dangerous to assume that a 'happily married' couple is communicating well about the division of their estate." This becomes even more evident, he indicates, when this is a second marriage for the senior generation. As Gromala notes, "[a]voidance of conflict by ignoring it is considered a virtue by many people. They gloss over sensitive areas to preserve ostensible harmony. Unfortunately glossing over a problem today invariably spawns a greater conflict tomorrow." Additionally, a failure to talk with family members about the senior generations' estate plan can adversely affect family relations long into the future.

Estate Planning

So what exactly do we mean by estate planning? It is the process of accumulating, preserving and distributing assets to achieve the financial goals of people during their lifetimes, and to provide for their heirs according to the estate owner's wishes at death. As such, estate planning is not a one-time event. Instead, it is an ongoing

process designed to accomplish accumulation, preservation and distribution objectives, both during your lifetime and after your death. Each of these three objectives has some key elements:

Accumulation Estate accumulation objectives involve accumulating assets and net worth during your lifetime by systematically channeling money into savings, insurance and investment plans.

Preservation Estate preservation objectives include protecting your ability to earn an income during your working years and planning to minimize and offset estate shrinkage at your death.

Distribution Estate distribution objectives deal with identifying and implementing the tools and techniques that will distribute estate assets to your heirs in an advantageous manner that is consistent with your wishes.

These three objectives are not age specific: people of every age likely have intentions for each one. [Passing It On](#) will emphasize setting goals for the preservation and distribution of assets.

Objective of this Resource

This handbook is designed to be a resource and guidebook to help you and your family begin a discussion about what to do with the assets in a family farm or ranch, and start putting your plan together. In compiling it we had four objectives:

- Show how to deal with some of the difficult personal issues
- Provide exercises and check sheets to set goals and move forward
- Provide background on the primary tools used to implement a plan
- List Wyoming resources to assist in the process.

This handbook is not intended to be a do-it-yourself guide. We strongly encourage you to work with estate planning professionals, including attorneys, accountants, financial planners and insurance agents who can help you make sure that your plan is feasible and can be implemented.



The chapters we've developed will provide ideas and walk you through the different steps of the estate planning process.

Chapter 2 illustrates examples of two real-life families who have gone through the estate planning process. You will be able to see some of the challenges that they have faced and the tools they have used. The second tells the story of a family who did not successfully develop an estate plan and you will see the ramifications that had on the family relationships.

Chapter 3 offers tools to help you sit down with your family and start the conversation on estate planning. The issues and emotions that come up when talking about estate planning and how to pass the family agriculture business on to children are sometimes difficult to work through, even when you know it is time to get it accomplished. This chapter will help you get started.

Chapter 4 helps you develop common goals for the ag operation to work toward. Because each estate carries with it value and meaning for all individuals in the family, the expectations of each individual as to who receives property, in what amounts and why are vastly different. Finding the common ground and outlining goals for the distribution of an estate will guide your estate plans.. The objectives you establish will accomplish the goals.

Chapter 5 helps you take stock of your current operation. As a result of completing this section you will have completed a personal financial statement. The information you will have collected will help your planning and decision-making, and assist your professional advisors. And you'll have collected important information all in one place.

Chapter 6 deals with succession planning. Successfully transferring an agricultural operation from one generation to the next requires transferring both the assets and the management

responsibilities. While the estate plan deals with the accumulation, preservation and distribution of assets over a person's life, a succession plan focuses on the shift in a business's management responsibilities from one person to another. The material in this chapter presents points to consider. In the next edition of *Passing It On* more detailed information will be provided.

Chapter 7 provides an introduction to the tools you can use to carry out your estate planning goals. Topics covered include trusts, conservation easements, life insurance, wills, trusts, powers of attorney, ownership, gifting, annuities, probate and tax considerations.

Chapter 8 discusses communication tips and techniques to use in a family meeting to gather family agreement on the plan.

Chapter 9 provides a list from which you can choose professionals for information and guidance. The areas of professionals work in the areas of taxes, law, communication and facilitation, insurance and financial planning. These professionals can help you finalize the estate plan and put it into place.

While the estate planning process may seem like an insurmountable task, by working through each step and consulting with trained professionals, you and your family can put together an effective plan for the future of your ranch or farm.

¹ Wall Street Journal, November 18, 2003.

²See also Center for Rural Community Revitalization and Development, *Business Transfer and Retention in Rural Nebraska*, 2002 Nebraska Rural Poll Results, 2002.

³Amber Waves, April 2005, a publication of the USDA-Economic Research Service. Available online at <http://www.ers.usda.gov/AmberWaves/AllIssues/>.

⁴R.J. Fetsch, "Some Do's and Don'ts for Successful Farm and Ranch Family Estate Transfers," *Journal of Extension*, June 1999, Vol. 37, No. 3..

⁵John A. Gromala, "The Use of Mediation in Estate Planning," *California Trust and Estate Quarterly*, Fall 1996, available at <http://adrr.com/adr2/estate.html>