

Estate Planning on the Family Farm

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Family farms provide significant public benefits. Unfortunately, fewer and fewer families are able to retain their family farm to maintain these benefits for future generations. A key to securing family legacies for your family farm is good estate planning. Although you may have discussed your plans and desires regarding the passing of the family farm with your heirs, your estate plan must be documented in legal ink. As we all know, it cannot be assumed heirs "will do the right thing" or they will "all want the same thing" after you have passed away. Estate planning documents and regular updates to account for changed circumstances are necessary to keep farm land intact and in the family.

Upon your death, the management and distribution of your assets will depend upon the planning you do during your lifetime. If you do no planning, California law requires the appointment by the court of a person to administer your estate. Your assets will be distributed in fractional interests to specific heirs as identified in the California Probate Code. This may not be the distribution you want and may lead to significant disagreements and disputes among your heirs with respect to the management and operation of the family farm. This unplanned procedure may also cause the sale of all or a portion of the family farm land.

Effective estate planning also includes financial, tax, medical and business planning. As discussed below, a Will may be one part of the planning process, but other strategies and alternatives are available to fully and effectively carry out your estate plan.

LAST WILL AND TESTAMENT

A Will is a customary estate planning document which is effective upon your death. It nominates an executor to manage and distribute your estate, and identifies who will receive distribution of the assets of your estate according to your instructions in the Will. Depending on the gross value of your estate, the distribution of your assets may be subject to administration by the Probate Court.

Probate is the court-supervised procedure for distributing your assets to the beneficiaries named in your Will. A probate proceeding is undesirable for a number of reasons including its public nature. The provisions of your Will and the value of your estate will become public record through the probate process. Additionally, attorney's fees and executor's fees incurred in connection with the probate procedure are normally based upon the value of your

assets. This means a probated estate may incur greater expenses than an estate distributed under an alternative approach, such as a Revocable Trust.

REVOCABLE TRUST

A Revocable Trust is a written agreement between the individual creating the trust, the Trustor, and the person named to manage the trust's assets, the Trustee. In most cases, you will be the Trustor and initial Trustee of your trust; however, the trust also designates an individual to act in your place, as successor Trustee, when you are no longer able to do so.

Once created, your Revocable Trust is funded with your assets. The transfer of assets is from you as an individual to you as Trustee of the Trust. The transfer will be appropriately documented through recorded deeds and/or other means depending on the nature of the assets transferred. Assets held in your Trust at your death will be managed and distributed by the successor Trustee according to your instructions, without being subject to the time, burden and expense of Probate.

GIFTING

Many farmers describe themselves as "land rich, penny poor," which can create significant estate tax problems for their families. Gifting becomes an important estate planning tool in this scenario.

Each year, you can gift up to \$13,000 in value per child, grandchild or other heir, without incurring a gift tax. The gifts do not have to be cash and may include undivided interests in farm land or ownership in a business entity. Through gifting, the value of your estate can be reduced by transferring ownership interests in land and/or businesses to your heirs during your lifetime.

Currently, the estates of people dying in 2010 are not subject to pay any estate tax. However, rumors abound that Congress intends to enact new legislation which will reinstate the estate tax for 2010 retroactive to January 1, 2010. If no new legislation is enacted this year, the estate tax will return, effective January 1, 2011, and the value of your estate not subject to estate tax will be \$1,000,000 (the exemption amount in 2009 was \$3,500,000). Your tax consultants and estate attorney can work together to maximize the benefit of various estate planning strategies, including gifting, to reduce and possibly eliminate your estate tax burden.

Joshua J. Bettencourt is an attorney in the law firm of Kahn, Soares & Conway, LLP. Visit <http://www.ksclawyers.com> for more information. Please be advised: this article is for informational purposes only and does not constitute legal advice.

BRIEFS

Agricultural Education Alumni & Friends Gala

The Foundation for Vocational Agriculture is hosting a fundraiser gala April 24, 6:00 pm at the King's Fair Wine Garden. The event will be a reunion of Hanford FFA members and program supports all coming together to raise support and funds for vocational education programs in the Hanford Joint Union High School District. Tickets are \$75 per person. For tickets or more information contact John Olivas at 877-424-6724 or email VoAgFoundation@directv.net.

National FFA Week Raises Money for "Hope for Haiti"

Hanford FFA celebrated National FFA Week ending February 27. Students participated in lunch activities like a staff *Kiss the Pig* contest raising money for *Hope for Haiti*. The chapter also sponsored three BBQ's at each campus where the meal was free for FFA members and \$3 for non-members. In total, the chapter raised \$563.05 for *Hope for Haiti*.

Brazil to add tariffs on California commodities

A number of California-grown crops have been caught in a trade dispute between Brazil and the U.S. Brazil says it will raise import duties on U.S. products, in a dispute about the U.S. cotton program. The duties would slow imports of California crops including cotton, cherries, raisins, walnuts, prunes and wheat. Marketers say Brazil is not a large buyer of any of those crops, but that any trade disruption can cause problems for California farmers.

CVP increases water allocations

Increased water allocations from a federal water project will be welcome news in the Central Valley. Farmers south of the delta who buy water from the **Central Valley Project** saw their allocation rise to 25 percent, and farmers north of the delta stand to receive 50 percent. **California Farm Bureau** President Paul Wenger said the additional water will help to replenish groundwater supplies in regions plagued by water shortages, and will help assure water for post-harvest irrigation of orchards and vineyards this summer.

UCCE offers nutrition education for county schools

The University of California Cooperative Extension in Kings County has FREE curricula to help school districts implement the nutrition education portion of their wellness policy. These teacher tested curricula are linked to the California Content Standards for language arts, math and science. Eligible schools are those that are at least 50% free or reduced lunch programs. For more information call Denise Cuendett at 582-3211 extension 2734 or email dhcuedett@ucdavis.edu.

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