

Woodbury: Farm Family Business

Family Harmony After the Gift



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Bio

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Call it the Great Giveaway. In large part due to the potential reduction in 2013 of the federal estate tax exemption amount (just over \$5 million per individual) and the high value of farmland, many families rushed to complete sizeable gifts to their heirs in 2012.

It wasn't until New Year's Day that Congress kept the estate tax exemption as is and permanently indexed it for inflation. The tradeoff, however, was an increase in tax rates from the old 35% rate to 40% on any amounts above that limit. That's a big victory for agriculture, but it hasn't stopped farmland prices from pushing many estates over the tax threshold.

In working with family agriculture businesses, I've always been aware of tax management strategies, especially on an annual basis when it comes to writing off new equipment purchases, deferring grain sales and prepaying expenses.

When it comes to land, the use of entities such as family limited partnerships and the practice of discounting entity share values for lack of marketability and control have been around for years. However, the use of these strategies increased significantly in 2012 based on my observations and discussions with other families and accountants.

Many families refer to the land -- and their equity in it -- as the goose that lays the golden eggs for the family. Thus it has certain significance from a gift-giving standpoint. So what does it mean to your heirs that they just inherited, depending on the discount you were able to use, some amount north of \$10 million?

Are they excited? Are they thankful? Do they even understand the gift?



Escalating land values and the threat of higher estate taxes prompted many farm parents to gift farmland ownership at year-end. The problem is that complex trusts, deep discounts on minority shares and other tax strategies require discussion. (Photo courtesy of asenat29, CC BY-SA 2.0)

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Here are a few strategies to encourage family harmony in 2013 after significant equity transfers in 2012:

Give people a chance to understand the strategy and how it will affect them -- and include their spouses. The aforementioned strategies to transfer land equity have some amount of complexity. Plus, new entities and trusts may have been created in the process. In many ways, the picture of the business just got more complicated.

Take time on a regular basis -- not just once -- to go over the structure of the business and educate family members. Your accountant and attorney can lead the process of describing what you did and why it benefitted the family. Reminding people, perhaps annually, of the structure that exists and why it was done helps prevent people from making assumptions. Including spouses can help make sure all those who can cause family conflict in the future understand your goals and expectations.

2013 may be a year when your adult children, by virtue of your gift, become significant owners and business partners. Use the gift as a chance to enter into a discussion about what it means to be an owner. What are the financial metrics important to the sustainability of the family's wealth? What kind of financial return is expected? How do you decide when to make certain improvements to property? Even if you didn't pass control of gift to the next generation, the gift represents a great teaching opportunity and a chance to pass your land ownership ethic on to the next generation.

Use the gifting event as a way to reinforce the values that have led to a successful business and estate. Most agriculture families I know, even though they are now multi-millionaires, remember well the struggles of the 1980s or know the long history of building a land base over decades through small land purchases. Share the stories of your family's hardships along with its success.

A windfall gift can sometimes minimize the recognition of what it took to achieve the asset base in the first place. And runaway land values, just like in times prior, are in many ways a result of forces beyond the farm -- commodity prices, low returns in the stock market, global demand. Make sure you illuminate the daily practices and business rituals within your control that in turn lead to business prosperity.

A substantial gift provides a new avenue for family business conversations. Just like you seized the opportunity to transfer significant asset values out of your estate in 2012, seize this opportunity in 2013 to open up a new kind of dialogue about ownership expectations in the family enterprise.

EDITOR'S NOTE: Lance Woodbury has spent 20 years as a consultant to farms and family owned businesses in Garden City, Kan., with a special emphasis on mediation and conflict resolution. He is also the author of "The Enduring Legacy: Essential Family Business Values." E-mail suggestions for this column to lance@lancewoodbury.com

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