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Make Progress On Your Estate Plan in 2022

During the last two years, the threat of a reduced federal estate tax exemption—the amount the government allows you to gift to your heirs that is excluded from estate tax—has caused many farm and ranch families to revisit, and in some cases speed up, the gifting of farm and ranch assets to the next generation.

The exemption, which in 2022 allows for a married couple to gift up to $24 million or an individual to gift $12 million, is scheduled to be reduced in 2026, although it could still be reduced earlier. And, while it isn't much fun to have to plan your ownership transition in response to the federal government, a silver lining is that it forces many families to have conversations about the future that they might otherwise put off.

If you did not update your estate plan in 2020 or 2021, this year is a good time to consider your future ownership transition. Following are a few suggestions to help you in that process.

BEGIN WITH YOUR INTENTIONS

One of the temptations in the estate-planning process is to jump immediately to the evaluation of the tools you need to accomplish a transition, such as wills, revocable or irrevocable trusts, and legal entities. But, those tools are simply vehicles to accomplish your intentions. For example, do you intend to gift your assets equally to your children, regardless of whether they returned to the farm or whether they have been at the farm for different lengths of time? Do you intend for the next generation to inherit land jointly in a partnership (and thereby be in business together) or to individually own specific parcels? It is helpful to get clear on what you want to have happen, then you can choose the best tools to accomplish those goals.

GET COMFORTABLE WITH YOUR ADVISERS

Estate planning should be a collaborative endeavor among your professional advisers, including your accountant, attorney, life insurance provider and investment adviser. Your estate plan will impact a generation or more of your family members, so if you have concerns or questions about the people on your advisory team, consider vetting other advisers early in the process. Furthermore, discuss your estate plan with another business owner or two you trust and respect in order to get a real-world reaction to your goals and strategies.

ESTABLISH A REGULAR PATTERN OF INTERACTION

Estate planning is an iterative process, where you consider your goals, the current laws, your financial assets and the tax effects of certain decisions. A change in one area impacts all of the others. Instead of planning one or two meetings, or meeting separately with your advisers, I encourage families to have shorter, recurring meetings over several months with all advisers to fully explore how all of the pieces fit together. Videoconferencing technology makes an ongoing process with several advisers very efficient.

OUTLINE THE PROS AND CONS OF EACH APPROACH

There is only one wrong approach to estate planning, and that is to do nothing. Every other choice has both positive and negative elements. The goal, then, is to find the strategy that accomplishes your intentions with the most benefits and least consequences. Try to poke holes in each of the approaches you consider. Reflect on and debate the options. There is likely no perfect answer to your particular estate situation. However, given the proper amount of deliberation, you can find an answer that meets most of your goals.

Estate planning can be quite uncomfortable, as it forces conversations about mortality, the future of the business and the ownership of land. But, the legacy you've established is important, and future generations will thank your tomorrow for good planning today.

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