# The Land Inheritance Conundrum

Many family farm and ranch owners inherited land from earlier generations. It may have been the original homestead or land their parents or grandparents bought when they began farming or ranching. I even know of two parcels won in high-stakes card games. This land passed as an inheritance often gave the next generation a foundation to grow the business. What began as a quarter, or a section, has likely grown into hundreds, if not thousands, of acres.

That land is now worth more. And, even if there aren't that many more acres, the proximity to an urban area, or the development or recreational potential of the land, can add significant value. If you have grown the business, your other assets are worth more, too. Livestock, equipment, infrastructure—it all adds up.

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For an increasing number of farming and ranching operations, this means the prospect of paying estate tax upon the death of the senior generation, which is triggered when an individual's assets exceed $15 million, $30 million for a couple. It sounds like a lot, but every year, it takes fewer acres to reach that threshold. Few family business owners relish the idea of their children selling assets to pay estate tax.

Which leads back to inheritance. Many estate tax mitigation strategies involve placing land into an entity, such as an LLC, and then giving "units" (similar to shares) to your children during your lifetime. A related strategy includes placing land in various types of irrevocable trusts. Your children, instead of receiving an outright gift of land at your death, now receive ownership, or become the beneficiaries of, land held together in an entity. These strategies can help reduce the value of your estate in the eyes of the Internal Revenue Service.

While these tools help mitigate estate tax, they come with challenges, particularly if you are gifting ownership to multiple children. Consider the following:

**The gift takes place now, but the benefit comes later.** Generally speaking, most gifts are given for the recipient to use as they see fit. But by placing land in a business entity or trust, the point is to do things now that reduce the estate tax burden that heirs might have to pay later. The gift has little "useful" value to the recipients today; it reduces the giver's estate, which will translate into benefits for the recipients—but not until the future. This fact isn't always communicated well by the senior generation and can create unrealistic expectations among heirs.

**The gift creates a business partnership.** By placing land into a business entity or trust, and making people owners or beneficiaries, ownership is transformed from physical assets to percentages. Siblings and heirs, kids and grandkids become partners in an instrument in which they had little choice to join. They may indeed be grateful for the gift but resentful of being financially hitched to one another.

**The gift needs an eventual exit strategy.** Partnerships can be easy to enter and difficult to exit. By creating a business tie among family members through an entity or trust, the question should also be asked: "How do future generations get out of business together?" We all know families torn apart by emotional negotiations over inheritance. Give them a framework to sell their interests to one another to reduce friction in their future business relationship.

Giving land to future generations can be a wonderful blessing. But, when coupled with some advanced estate tax mitigation strategies, it can complicate the family relationship. Be sure to thoroughly discuss the pros and cons of your ownership transition strategy with your advisers and family members. ///

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