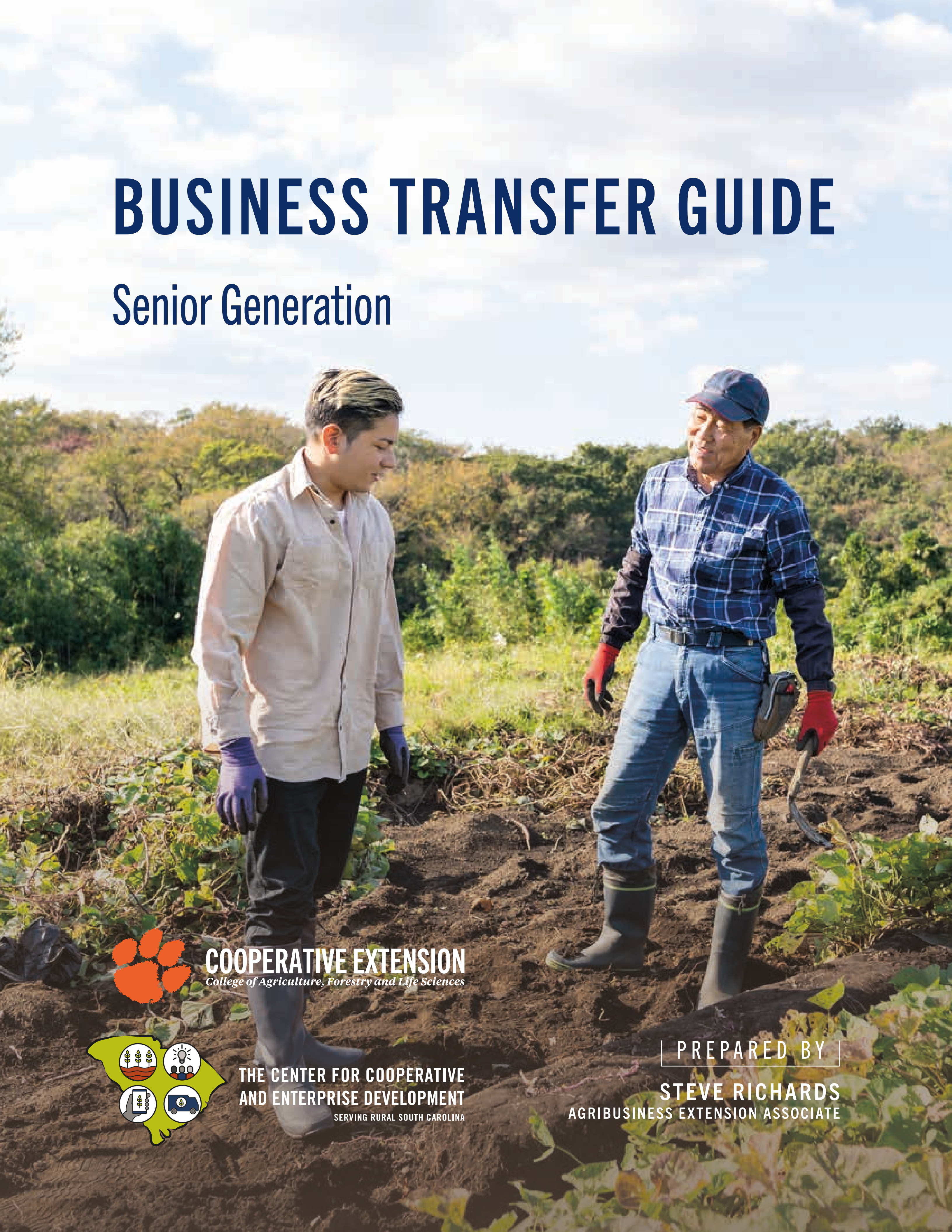

BUSINESS TRANSFER GUIDE

Senior Generation

COOPERATIVE EXTENSION
College of Agriculture, Forestry and Life Sciences

THE CENTER FOR COOPERATIVE AND ENTERPRISE DEVELOPMENT
SERVING RURAL SOUTH CAROLINA

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Business Transfer Guide
Senior Generation

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INTRODUCTION

YOUR BUSINESS TRANSFER GUIDE

WHAT IS A BUSINESS TRANSFER?

For this workbook, business transfers can include one or more of these three scenarios:

- Transferring ownership of business assets
- Transferring control of business assets
- Transferring management decision making

WHAT ABOUT PARTNERSHIPS?

Suppose you are considering working together with the senior generation for a while. In that case, you may be considering a partnership type of arrangement. There are many different ways of working together than just a general partnership. For more information on this topic, please request a copy of *Doing Business Together: A Joint Business Agreement Guide* from the South Carolina Center for Cooperative and Enterprise Development at Clemson University *clemson.edu/extension/agribusiness/sccced*.

USING THIS WORKBOOK

Often, farm transfer decisions can be complicated, but they don't have to be. This workbook takes you through the farm transfer process step-by-step at your own pace. The steps in this workbook are a guide, and you may use them in a different order if you wish.

DISCUSSION POINTS

There will be many questions to answer and discuss along the way. This heading will alert you to stop and discuss an important point or fill out a worksheet.

Discussion Point

DECISION POINTS

At each step in the transfer process, you will need to make a decision. These decisions will help you narrow down the options that fit your particular situation. *Before you move to the next step in the process, you need to answer these questions!*

Decision Point

CHAPTER 1

PLANNING FOR RETIREMENT

Retirement planning doesn't have to be as daunting as it sounds! This step will ask you three basic questions: when will you retire, how much money you need for retirement, and how much of that money you need from the farm?

Leave some time to accomplish the things you want to get done on the farm, and leave time to do those exciting post-retirement activities! Make yourself a timeline of when you think the best retirement date would be.

SET A DATE!

Retirement planning starts by picking a date for retiring from day-to-day farm duties. To get prepared for picking a date, ask yourself and your family some of these questions:

What do you want to do on the farm before you retire?

- When will the farm be ready to transfer?
- Why do you want to continue working?
- Do you enjoy what you are doing now?
- How will you slow down and back off from your day-to-day responsibilities?

What do we want to do after we retire?

- What kind of hobbies do you enjoy?
- Where do you want to travel?
- Do you want to spend more time with your family?

Make a list of things you want to do during retirement:

____

____

____

____

____

Set a date for retirement

Today's Date ______________________

Retirement Date ____________________

Complete the Retirement Plan on page 28.

HOW MUCH DO YOU NEED TO RETIRE?

Here is the following question to ask yourselves after setting a date: How much money do I/we need to retire? Stock market analysts and others on Wall Street make it sound like you need a mint to retire, but this may not be the case. Find out how much you need by drafting a retirement budget.

RETIREMENT INCOME

Before we look at any income derived from the transfer, sale, or lease of the farm, let's concentrate on the other retirement income sources available. Most of these sources would be from Social Security and retirement savings.

Calculate your estimated Social Security payments.

You can find out what your monthly Social Security Income will be by contacting the Social Security Administration at *ssa.gov* or 1-800-772-1213. Be sure that these earnings are calculated from the date you wish to retire. Also, realize that the monthly benefits increase by retiring at an older age.

Annual Benefits, Age 62 $ ____________

Annual Benefits, Age 65–67 $ ____________ **A**

Annual Benefits, Age 70+ $ ____________

Calculate your estimated retirement savings income.

If you have a retirement account (i.e., 401k, IRA, Annuities), call your representative for an estimate of your annual retirement income. Suppose your retirement funds are not managed by an outside party. In that case, you may need to seek advice from a financial advisor to help you estimate your annual retirement income.

Annual Withdrawal $ ____________________ **B**

Annual income other than Social Security and retirement funds.

How much additional income will you have during your retirement? Do you or your spouse plan on working part-time? Do you have other nest eggs? Estimate the amount of annual income that these sources will provide.

Annual Income from other sources $ ____________ **C**

Total of all non-farm retirement income

$ ________________________ (A + B + C)

RETIREMENT EXPENSES

When estimating your retirement expenses, consider these three major areas: housing, health care, and everything else!

Calculate your annual estimated housing costs.

Mortgage Payment ____________________

Homeowner's Insurance ____________________

Home Maintenance ____________________

Utilities ____________________

Other Housing Costs ____________________

Annual Housing Costs $ ________________ **A**

Calculate your annual estimated health care costs.

Health Insurance/Medicare ____________________

Medicines ____________________

Co-payments for Visits ____________________

Other Health Care Costs ____________________

Annual Health Care Costs $ ________________ **B**

Calculate your other annual costs.

Groceries	______
Entertainment/Dining	______
Auto Fuel & Repair	______
Pet Expenses	______
Vacation/Travel	______
Gifts	______
Loan/Credit Card Payments	______
Clothing	______
Charity	______
Income Taxes	______
Property Taxes	______
Insurance (car, boat, etc.)	______
Other Expenses	______
Other Annual Costs	$ ______ **C**

Total of all non-farm retirement expenses

$ ______ (A + B + C)

HOW MUCH MONEY DO YOU NEED FROM THE FARM?

Now that you know how much money you have for retirement, you can calculate how much retirement money must come from the farm operation.

Calculate the difference between non-farm retirement income and expenses.

Retirement Income – Retirement Expenses
= $ (Needed)/Leftover

$ ______ – $ ______
(Total Income) (Total Expenses)

= $ ______
D

Suppose retirement expenses are greater than retirement income. In that case, the result is the annual amount of money you need the farm to provide for your retirement. Suppose retirement expenses are less than your projected retirement income. In that case, you may not need the farm to supply you with additional retirement funds.

RETIREMENT INCOME NEEDED FROM THE FARM

If the farm needs to contribute to your retirement, you still have options to consider. What narrows down these choices is how much money you need from the farm. As you will see in this workbook, specific business transfer options may provide you with more money than others.

Circle the annual retirement income needed from the farm and complete the Retirement Plan on page 28.

$0

$0 to $5,000

$5,000 to $10,000

$10,000 to $20,000

$30,000 and above

CHAPTER 2

SELLING VERSUS TRANSFERRING FARM ASSETS

Selling the farm assets can take two forms: sell some or all of it over time or sell all the assets simultaneously. Farm transfers may include selling as one of the methods to transfer assets.

Before you decide which direction to take, sit down with your family and discuss the farm's future. Does everyone want the farm to remain in business? What are the expectations of the next generation? To help you with family discussions, please fill out the goal setting worksheet beginning on page 25.

SELLING FARM ASSETS: HOW MUCH WILL BE LEFT AFTER TAXES?

This is basically an accounting question decided by how much your farm business is worth, how much you still owe on it, and how much you will pay in taxes after the sale. The questions below will help you walk through this process and give you a rough estimate. However, before any sale of farm assets, you should meet with your tax preparer.

HOW MUCH IS THE FARM WORTH?

The best person to answer this question is a certified farm appraiser. Your lender may also be able to give you a reasonable estimate. Ideally, get a separate estimate for each asset class: livestock, equipment, buildings, and land. This will help with future decisions as to what assets to transfer and which assets to sell.

HOW MUCH DO YOU OWE?

How much debt does the farm owe? Specifically, how much debt is owed on each asset: livestock, feed and supplies, equipment, buildings, and land? To find out the exact amounts, call those that you have borrowed from. Remember to include credit card debt and unsecured debt, like IOUs.

How much is the farm worth?

Livestock	______________	
Feed & Supplies	______________	
Equipment	______________	
Buildings	______________	
Land	______________	
Other	______________	
Total	$ ______________	**A**

How much debt is owed by the farm?

Livestock	______________	
Feed & Supplies	______________	
Equipment	______________	
Buildings	______________	
Land	______________	
Other	______________	
Total	$ ______________	**B**

HOW MUCH WILL THE TAX BILL BE? CALCULATING GAIN

Before you know what the government will take, you need to know the taxable gain on your farm items' sale. Have your accountant help you calculate the potential gain on the sale of your farm. Gain is the difference between the sales price and the adjusted basis (what you paid for an item minus accumulated depreciation). Raised cattle and crops, feed and supplies, and fully depreciated assets have a zero adjusted basis.

What is your adjusted basis on each of these items?

ITEM	PURCHASE PRICE	–	ACCUMULATED DEPRECIATION	=	ADJUSTED BASIS
Purchased Livestock (>2yrs)		–		=	
Purchased Livestock (<2yrs)		–		=	
Equipment		–		=	
Buildings		–		=	
Land		–		=	
Other Items		–		=	

What is your gain on each of these items?

ITEM	VALUE OF ASSET	–	ADJUSTED BASIS	=	GAIN ON SALE
Purchased Livestock (>2yrs)		–		=	
Purchased Livestock (<2yrs)		–		=	
Equipment		–		=	
Buildings		–		=	
Land		–		=	
Raised Livestock		–	Zero Basis	=	
Growing Crops		–	Zero Basis	=	
Inventory		–	Zero Basis	=	
Other Items		–		=	

WHAT IS THE TAX LIABILITY? CLASSIFYING AND TAXING GAINS

The second step is to classify the gain. Gain from the sale of raised dairy and breeding cattle, land, some buildings, timber is typically a capital gain. Gain from the sale of purchased breeding and dairy cattle, machinery, equipment, and single-purpose structures is usually ordinary income not subject to self-employment tax. Gains from the sale of crops, supplies, and livestock held for sale are ordinary income and reported on Schedule F. Schedule F income is subject to self-employment tax.

How much is your gain, and how is it classified for each of these items?

ITEM	GAIN TYPE	AMOUNT OF GAIN
Purchased Livestock (>2yrs)	Ordinary/Not Sch. F	$
Purchased Livestock (<2yrs)	Ordinary/Yes Sch. F	$
Equipment	Ordinary/Not Sch. F	$
Buildings	Capital Gain	$
Land	Capital Gain	$
Raised Livestock	Capital Gain	$
Growing Crops	Capital Gain	$
Inventory	Ordinary/Not Sch. F	$
Other Items		$

Gain Type	Tax Rates
Ordinary/No Sch. F	Ordinary Income Tax Rate
Ordinary/Yes Sch. F	Ordinary Income Tax Rate + Self Employment Tax
Capital Gains	Capital Gains Tax

ESTIMATE TAXES DUE ON THE SALE OF FARM ASSETS

Now that you have calculated your basis, estimated your gains, and identified the taxes you are subject to, talk to your accountant! For a rough estimate, most standard farm sales pay about ⅓ of the gain in taxes. Hopefully, your accountant can help you strategize how to lower this tax bill. Typically, selling farm assets over multiple years helps spread the gain out over multiple tax years, reducing the tax.

What is your tax liability if you sell the farm?

Estimated Amount of Taxes Owed Upon Sale $ ____________________ C

HOW MUCH MONEY IS LEFT AFTER SELLING THE FARM?

Estimate what would be left after selling the farm by subtracting debt and taxes from the sales price.

What is left if you sell the farm?

Sales Price of Farm – Debt Owed – Taxes Owed

$ ____________ – $ ____________ – $ ____________

A B C

= What's Left

= $ ____________________

D

Are the farm sale proceeds enough to fund your retirement? You will have to divide "What's Left" by the number of years you plan to be retired. Also, compare this number with any calculations you made in Chapter 1 of this workbook.

Which category do you fall into below?

☐ **We have enough to retire without the sale of the farm!**

Excellent! The sky is the limit on what you can do with the business.

☐ **We have enough to retire if we sell the farm.**

Your options are still open! If you decide to sell, you will be able to finance your retirement. If you choose to transfer the farm, you can ask the junior generation a fair selling price (or perhaps a price lower than market value) for the farm.

☐ **We have close to enough money to retire if we sell the farm.**

Your options are slightly narrower, as you may have to consider other means of income during retirement. If you decide to transfer, you will need the junior generation to help finance your retirement – either through rental payments, selling farm assets, or a combination of both. Some other things to consider:

Are there other sources of income that you didn't think about?
Maybe some retirement costs can be lowered?
Is it possible to extend the retirement date a little longer?
Can you extend the sale of farm assets to save on some taxes?

☐ **We cannot fund our retirement through a farm sale.**

You need to check out different options rather than selling outright. Some of these options may involve taking a few more risks, as you may be depending on the junior generation to provide for your retirement. This means that the future success of your business is necessary for your retirement.

CHAPTER 3

ASSESSING BUSINESS VIABILITY

After Chapters 1 and 2, you may have decided that you want to explore transferring the business. This chapter will help you assess the current and future viability of your farm. Some key points to consider: Is your farm viable for the next generation? Can your farm support multiple families? Will changes need to be made to increase the farm's viability?

IS YOUR FARM VIABLE FOR THE NEXT GENERATION?

Perform a current business analysis.

Complete the Financial Dashboard worksheet on page 30 and discuss it with your family. The dashboard will help you determine if the business can support additional family members. The dashboard provides financial indications in each of the five areas of financial analysis. The first three metrics assess the liquidity of the operation – its ability to pay bills as they come due. The fourth metric assesses solvency-the overall risk bearing capacity of the business. The Core Equity Burn Rate estimates the number of years the business's core equity (generally real estate) could finance operating losses. The next three metrics provide a snapshot of the business's efficiency in managing debt, earnings, and assets. The ninth ratio measures profitability. The tenth ratio evaluates whether the earnings of the operation are sufficient for the owner demands on the business. The last ratio evaluates the debt repayment capacity of the business.

The "ratings" of vulnerable, resilient, and agile give management an idea of the financial strength of business. While looking at just one year is valuable, looking at a three-to-five year trend of ratios provided better management information. Also remember that the business structure and owners age could also skew management's view of the analysis.

Based on the current business analysis results, do you (and your family) believe that the current operation is viable?

☐ Yes ☐ No ☐ Maybe

Estimate future business potential.

Complete the Management Dashboard Worksheet on page 31 and discuss it with your family. Specific areas of attention should be revenue growth, cost control, and resource availability. Also, identify and discuss industry trends and if these trends represent risk or opportunity.

CAN YOUR BUSINESS SUPPORT AN ADDITIONAL FAMILY?

If you consider transferring the farm while you still live and work on it, the business will have to endure some financial stress. While discussing these financial burdens with your family, you may wish to consider some of these other options:

- Helping the younger generation build equity and eventually move off the farm.
- Helping the younger generation get started at another location (maybe nearby, so that you can share resources).
- Expand the business to support multiple families.
- Make other changes to increase the business's future viability (new investments, new management practices, etc.).'

WHAT CHANGES WILL BE MADE ON THE FARM TO INCREASE ITS VIABILITY?

It may be hard to accept, but the business will change in the future. What are these changes going to be? Filling out the worksheet below will help you plan for these changes.

If you wish to make drastic changes in your business, you may need to draft a new business plan. Resources and technical assistance are available at *clemson.edu/extension/agribusiness/sccced.*

What changes need to be made on the farm to increase its viability?

Profitability

____

____

Management Practices

____

____

Financial Position

____

____

Revenue Growth

____

____

Family Expenses

____

____

Cost Control

____

____

Family Savings

____

____

Resource Availability

____

____

CHAPTER 4

THE SUCCESSOR AND BUSINESS TRANSFER

WHO WILL BE YOUR SUCCESSOR?

This may be either incredibly easy or very hard to answer, depending upon your situation. Choosing the proper successor is just as important as any other decision you make regarding your farm's future. If you have several children, the typical rule of thumb is to choose the best manager rather than simply assuming that the oldest child is the best choice. Fair isn't always equal—if you want the farm to remain a viable business unit, you may have to decide not to give each child an equal share of the assets.

Maybe you don't have any children or relatives whom you want to pass the farm on to. Typically, non-family farm transfers occur with a long-standing valued employee. Keep in mind what traits you are looking for in a successor and try to reach your decision rationally, based on facts, rather than making a hurried, emotion-based decision.

HOW WELL WILL YOU WORK WITH YOUR SUCCESSOR?

Unless you move away, you will be working with your successor for several years. Finding out how you work with other people is an essential task. The Junior Generation Farm Transfer Guide has a partnership quiz that can help you and the next generation discuss working together.

Don't assume that your successor already knows your intentions for the business. Meet with your successor often to find out their expectations as well. Ideas change, people change, and businesses change. The only way to keep in touch with reality is to communicate well and communicate often. Set a monthly meeting date in a neutral location with planned starting and ending times.

Complete the Partnership Quiz in the Junior Generation Guide.

HOW WILL YOU TRAIN YOUR SUCCESSOR TO REPLACE YOU?

Some successors come with all the skills they need to run your business. Unfortunately, this is a rare occurrence. You may need to help your successor improve his/her skills to successfully run the farm in your absence. The Junior Generation Farm transfer Guide has a "Getting Started Worksheet" that with this discussion.

Review the Skills and Education on the "Getting Started Worksheet" in the Junior Generation Guide.

WHEN ARE YOU GOING TO TRANSFER MANAGEMENT RESPONSIBILITY?

Once you have determined who your successor is, you need to set a timeline for transferring your management responsibility to them. This is a hard thing to do, but one of the most important. Many younger farmers haven't made any management decisions after being on the farm for 10, 20, even 30 years. This is because they were never trusted to make decisions on their own. A disaster is waiting to happen if management is suddenly thrust upon them when the older generation retires or dies.

Complete the Management Transfer Plan Worksheet on page 32.

WHEN ARE YOU GOING TO TRANSFER BUSINESS ASSETS?

The toughest part! The senior generation is never quick enough to transfer assets, and the junior generation is never patient enough. Transferring management responsibility before assets is usually the best way to go. Once someone has shown that they can manage your assets wisely, it is time to transfer those assets.

Complete the Asset Transfer Plan Worksheet on page 34.

CHAPTER 5

THE TRANSFER TEAM

Up until now, the advice you have needed for your business transfer plan has been limited. Now things get a little more complex: legal issues combine with family and financial issues.

WHICH PROFESSIONAL SERVICE PROVIDERS DO I NEED ON MY TEAM?

The most common mistake made by people transferring businesses is having too few people on the transfer team! Often, a single trusted family advisor (such as a lawyer or an accountant) executes the entire process. While this may get the job done faster, relying on just one individual may overlook a transfer plan's essential aspects. Below is a list of specialties that need to be represented on the transfer team:

Family/business members: Everyone who is affected by the transfer

Lender: Loan security, financing the next generation

Accountant: Tax implications of the business transfer

Business management specialist: Someone who knows the industry

Farm transfer facilitator: Keeps the process moving

Financial planner: Retirement planning and life insurance needs

Lawyer: Reviews and drafts the legal agreements, prepares estate planning documents

Other: Trusted family advisors

Realize that you will not need to meet with all these people every week. Nor will you have to meet with all these people at the same time. However, the team needs to know what is going on to double-check each other's work and make additional suggestions during the process.

HOW DO I FIND A GOOD SERVICE PROVIDER?

After reviewing the transfer team members' list, you may notice that you need to find more people for your team. How do you go about finding the right service provider? Here are some tips for finding the right transfer team member:

1. **Compile a list of names.** List all the people you can find in that particular service area. Ask around—your family, other service providers, and even your neighbors.

2. **Check the person out.** Find out who has used that person's services and call them for references. Look for online reviews. Treat this like a job interview—this service provider will be doing important work for you, so you want the best!

HOW DO I GET THE MOST FROM PROFESSIONAL SERVICE PROVIDERS?

Service providers are busy people like you, and they have other businesses to attend to. Here are two good pieces of advice to getting the most from your service provider:

1. **Keep in contact.** Ensuring that your service provider gives you the attention you need is like the old adage: "the squeaky wheel gets the grease." You need to be in regular contact with your transfer team—don't wait for them to call you.

2. **Ask the right questions.** Ask questions in the service providers' expertise (i.e., don't ask your accountant legal questions). Do your homework so that you ask the most direct, concise question possible. Don't be afraid to get clarification on items that you don't understand.

3. **Make expectations known upfront.** What do you expect from your service provider, and how much is this going to cost you? How is this person going to cooperate with your family and the other transfer team members? It is a good idea to write these things down and review them with your service provider to see if they are willing to meet your expectations. Get all agreements in writing.

4. **Don't be afraid to change providers.** Although you may have time and money invested in a particular person, don't be scared to replace that person if he/she isn't doing the job you want. The future of your business depends on getting the transfer done right.

WORKING WITH YOUR ATTORNEY

One key point to remember is that attorneys specialize in different aspects of the law. For a farm transfer, you need an attorney with experience in estate planning, business transfers, and business transactions.

HOW MUCH WILL THIS COST?

A business transfer may cost you a good amount of money. Prices range from a thousand to multiple thousands of dollars, depending on the transactions' complexity. You need to think of this expense as an investment. Just like a good tractor lasts you ten years or more, a good business transfer agreement needs to last a long time.

Check off which specialties will be represented on your team and identify them.

- ☐ Business Members ____________________
- ☐ Lender ____________________
- ☐ Accountant ____________________
- ☐ Management Specialist ____________________
- ☐ Farm Transfer Facilitator ____________________
- ☐ Financial Planner ____________________
- ☐ Lawyer ____________________
- ☐ Other ____________________

CHAPTER 6

TRANSFER STRATEGIES TO CONSIDER

This section profiles the four strategies for transferring the farm to the next generation. Keep in mind, there is more than one way to combine these strategies to transfer the farm. This section is designed to introduce options for you to discuss with your transfer team.

There are four basic ways to transfer ownership/control of assets to the next generation: selling and leasing, gifting, inheritance, and through an intermediary such as a trust or a contract.

TRANSFER BY SELLING AND LEASING ASSETS

The advantage of selling and/or leasing assets to the next generation is that it provides cash flow for retirement. The main disadvantage is that the younger generation may not be able to afford the payments

SOME SALES AND LEASING METHODS COMPARED

METHOD	EXAMPLE	TAX CONSIDERATIONS	OWNERSHIP AND CONTROL CONSIDERATIONS	RISK CONSIDERATIONS
Lease (All Assets)	Barn, Land, Equipment, or Livestock Lease.	Lease payments are taxed as ordinary income.	Lease agreements give more control to the tenant, cannot be canceled easily.	Risk of default on payments. Risk of damaging leased property.
Lease with Option to Buy (All Assets)	"Rent-to-own" Lease as a trial period, then sell.	Lease = ordinary income Buy = some capital gains, some ordinary income.	The lease agreement gives more control to the tenant. Option to buy expires with the lease.	Cannot sell the property to another person while the option is in effect.
Share Lease Agreements (and Non-Cash Leases)	Sharemilking Sharecropping Leases with material participation	Payments are taxed as ordinary income even if payment is not cash	Lease agreements give more control to the tenant, cannot be canceled easily.	Risk of default on payments/damage to leased property Cannot sell during contract terms.

Land Contract (Fixed Assets)	Owner held mortgage (land and buildings only).	Interest payments are ordinary income. The principal is capital gains.	The tenant has control of the property while making payments. The owner still has the deed.	Default on payments. Property damage. Evicting tenant. Bankruptcy!
Owner Financing (All Assets)	Owner-held loan on any farm assets.	Similar to Land Contract. It can be done with more than fixed assets.	Similar to Land Contract.	Similar to Land Contract.
Bank Financing (All Assets)	A new farmer buys a farm with 3rd party financing. Co-signing possible.	Gain on sale immediately taxable. Some items are ordinary income.	The tenant has control of assets, the bank holds the mortgage.	Bank assumes most of the risk unless you are a co-signer.

Will you need to consider selling or leasing business assets to the next generation?

TRANSFER BY GIFTING

The advantages of gifting are that it avoids income taxes for the senior generation while giving the junior generation a break on the business's cost. The main disadvantage is that the senior generation does not receive any cash for retirement. Keep in mind that a gifted property's adjusted tax basis remains the same as it was for the person giving the gift. Your accountant can explain what impacts this may have on the next generation.

GIFTING STRATEGIES

Annual federal gift tax exclusion: The government allows a business owner to give gifts tax-free each year to his/her beneficiaries. Currently, the annual gift exclusion is $15,000 per donor/per person. So, a husband and wife can each make a gift of this amount without exceeding the annual gift tax exclusion.

Lifetime federal gift tax exclusion: If you need to gift a large amount of property, you may decide to use your federal lifetime gift tax exclusion. The lifetime gift exclusion is currently the same as the estate tax exclusion. How this works: if you give over the $15,000 annual gift tax exclusion amount in any one year, the excess is subtracted from your estate tax exclusion.

Keep in mind that the exclusion amounts can change at any time.

OTHER EXAMPLES OF HOW GIFTS CAN BE USED

Gift of interests in a family business: If you are organized as an LLC, S Corporation, or a C Corporation, you can give gifts of minority interests to your beneficiaries. You can also discount the value of the minority interest as well, allowing you to pass more real property through the business structure tax-free. This can become tricky when determining how much the interest is worth, as the businesses' value may fluctuate from year to year. Consult a tax accountant or a business transfer attorney if you are considering this option.

Gifts of life insurance: A gift of life insurance may be made three years before your death (IRS regulations). Life insurance may be given in two ways: simply giving the policy to your beneficiary or creating an irrevocable life insurance trust. For more information on this trust, see "Tax Savings" Trusts below. Remember that once you sign over your life insurance policy, it cannot be canceled or changed.

Will you consider gifting business assets to the next generation?

TRANSFER BY INHERITANCE

This is letting the estate plan, Will, or revocable living trust do all the work. The typical "someday, this will be all yours approach."

ESTATE STRATEGIES

Federal estate tax exclusion: Since 2001, the tax exemptions on property passed through an estate (after the owner dies) have been gradually rising. Currently, in 2021, the federal estate tax exclusion is $11.7 million per person. This means a married couple can have $23.4 million of assets pass through their estate tax-free (these are federal estate tax rules - states may have their own estate taxes and estate tax exemptions).

Some advantages of transferring property through the estate are that most property gets an automatic "step-up" in tax basis. This approach's disadvantages are that the junior generation never owns anything until you die and may not trust that you will not change your Will.

Will you consider your estate as a means to transfer business assets?

TRANSFER THROUGH AN INTERMEDIARY

This means that business assets are transferred or controlled by a third party (neither the owner nor the successor owns and manages the assets).

STRATEGIES INVOLVING IRREVOCABLE TRUSTS

Irrevocable trusts should not be confused with living trusts (or revocable living trusts, which are similar to Wills). Irrevocable trusts cannot be changed once they are funded and executed. Some irrevocable trusts are created for tax purposes. Others are designed to control how assets are used after one's death. With any trust, it is a good idea to consult your attorney and tax accountant before you decide which is best for your situation. Listed below are some of the more commonly used trusts. While this list is not complete, it is meant to give you a general idea of how trusts fit into a farm transfer plan.

Credit shelter trusts: There are many different kinds of credit shelter trusts. To list a few: AB trusts, QTIP trusts, credit shelter trusts, and disclaimer trusts. These trusts' goal is to preserve the estate tax exemptions of spouses whose assets are more than federal or state estate tax exemptions

Charitable remainder trusts: Basically, you put some or all of your assets into this charitable trust while alive. The charity then pays you a set amount of income per year while you are living. After you die, the charity takes possession of the remaining property in the trust (the remainder).

Generation-skipping trusts: You could put a portion of your estate in a trust that pays interest to your children, but the principal amount is designated for your grandchildren. The property in the trust is included in your estate's value when you die, so it may not relieve any tax burdens associated with the federal estate tax.

Special Needs trusts: A trust that is formed to help pay the expenses of a disabled person. With this trust, you must find a good trustee that can manage the money for the disabled person.

Education trusts: These trusts are usually used to designate money to pay for someone's college education (besides your own). There are other options to consider if you are looking to put money away for someone's education—such as the section 529 plan or an Educational IRA. Both of which have named beneficiaries and may achieve your goals without having to establish a trust.

Spendthrift trusts: These trusts require you to designate a trustee to decide how your beneficiaries use your estate money after you die. Spendthrift trusts are used for those heirs who cannot control their spending habits or have addiction problems.

Flexible trusts: You can create your own trust with almost any instructions you want. As with most trusts, you designate trustees to follow your wishes on how the trust assets are used after your death. Typically, farmers use these trusts to specify how they want the farm assets (land, for example) to be used after their deaths.

Medicaid trusts or income-only trusts: These trusts are created to protect income-generating assets from creditor's claims. The most common use (hence the name) is to remove assets from one's possession so that person may be eligible to apply to Medicaid to pay nursing home costs. Keep in mind that Medicaid has a five-year look-back period (or penalty period) for assets placed into a trust. If assets are gifted outright, the penalty period is three years.

LIFE INSURANCE STRATEGIES

Pay estate taxes: You can designate a life insurance policy to pay your estate taxes when you die. This may provide needed cash to heirs and prevent the farm business from having to pay estate taxes.

Funding a buy-sell agreement: A buy-sell agreement gives a business partner the option (or right) to buy out another business partner. Life insurance is commonly used to fund buy-sell agreements among business partners. Otherwise, if a business partner dies unexpectedly, the remaining partners will have to buy out the deceased partner's heirs. In some cases, the deceased partners' heirs become the new business partners – which is rarely desirable.

Irrevocable life insurance trusts: These trusts are set up to own a life insurance policy. The main reason for creating a life insurance trust is to remove the value of the death benefit from the insured's estate, lowering the estate's value (for estate tax purposes).

CONSERVATION EASEMENT STRATEGIES

Selling or donating conservation easements (or development rights) on your property can be a difficult decision. Once you change the deed to your property, it is permanent. Some townships and municipalities have funds to purchase development rights, but most do not. There are tax benefits for donating conservation easements; however, talk to your accountant before making any decisions.

Selling conservation easements: You sell a deed restriction on your property to a qualified conservation organization. These easements can be used for wetlands, agriculture, or even scenic views. This money could also be used for retirement or to help the next generation buy your share of the business.

Donating conservation easements: The main benefit is reducing your estate's value, thus lessening possible estate tax. The donation value is also seen as a charitable contribution and may be deductible for income tax purposes.

OTHER STRATEGIES

Like-kind Exchanges: Sometimes, like-kind exchanges can be used in the transfer of farm real estate. There are three basic requirements for like-kind exchanges: the property must be business or investment property (not residential), the transaction must be an exchange of property, and the property must be similar (i.e., real estate must be exchanged for real estate). This can be helpful if you consider trading your farm real estate for commercial or rental property elsewhere.

Life Estates: A life estate is a deed restriction. You can designate property to be used for a specific purpose during your life or after your death. Some people use it to remain living in their house after they have gifted or sold the underlying real estate. Others use it to preserve a home or farm to be passed down through the generations.

Will you need to consider transferring business assets through an intermediary (trusts, insurance, easements, and other strategies)?

TRANSFER ASSETS THROUGH A BUSINESS STRUCTURE

The type of business structure chosen can then make your transfer plan easier. See the table below for some comparisons of business structures and their effect on business transfers.

Will you need to consider changing your business structure?

CONSIDERATIONS ON BUSINESS STRUCTURE AND BUSINESS TRANSFER			
BUSINESS STRUCTURE	EASE OF TRANSFER	INCOME SHARING	DECISION MAKING
Sole Proprietor	Ownership of assets determines interest in the business. Some difficulties may arise when transferring assets in this manner.	The proprietor makes the decisions on how net income is split. Proprietor pays the taxes on net income.	The owner is the sole decision-making authority.
Partnership **Limited Liability Company**	Partnership share (%) is determined by one's contribution to the business. This percentage may be increased or decreased relatively easily.	The partnership or LLC agreement determines how net income is split. This split can be based on management, labor, and/or ownership.	Partnership share (%) is the default as to who makes the decisions. But, the operating agreement can allocate decision-making differently.
S Corporation **C Corporation**	Shares of stock determine ownership. Shares of stock can be transferred easily.	Net income is split among shareholders according to how much stock each shareholder owns.	Shareholders vote on decisions based on ownership of shares. Operating agreements spell out job duties.

Check off those items that you need your transfer team to help you with.

Sales and Leasing of Assets
- ☐ Owner held mortgages
- ☐ Land contracts
- ☐ Leasing Assets
- ☐ Lease with purchase option
- ☐ New owner finds bank financing

Gifting of Assets
- ☐ Gifting of farm assets exemption
- ☐ Gifting of business interests
- ☐ Gifting of life insurance

Transfer through Inheritance
- ☐ Writing a Will
- ☐ Writing an estate plan

Transfer through Intermediaries (trusts, life insurance, easements)
- ☐ Tax savings trusts
- ☐ Property control trusts
- ☐ Life insurance tools
- ☐ Conservation easements
- ☐ Like-kind exchanges
- ☐ Life estates
- ☐ Medicaid trusts
- ☐ Long term care insurance

Transfer through a business structure
- ☐ Sole proprietor
- ☐ Partnerships
- ☐ Limited Liability Company (LLC)
- ☐ Corporation (C or S)

CHAPTER 7

FIVE COMPONENTS OF A WRITTEN TRANSFER PLAN

HOW DO I GET STARTED?

Before you meet with your transfer team, get your documents organized. Below is a list of documents that you need to have ready for your transfer plan. Once this information is collected, you should make a copy of it and store the originals in a safety deposit box.

- [ ] Emergency information
- [ ] Sources of current income
- [ ] Pensions/retirement plan/investment balances
- [ ] Real estate deeds/contracts/easements
- [ ] Business ownership interests
- [ ] Vehicle titles
- [ ] Insurance policies
- [ ] List of personal advisors (transfer team)
- [ ] Tax records
- [ ] Bank and credit card statements
- [ ] Records of those that owe you money
- [ ] Family information (a basic family tree)
- [ ] Any exiting business documents and contracts
- [ ] Any existing Wills

COMPONENTS OF A WRITTEN TRANSFER PLAN

Transferring business ownership can have up to five components: A business structure, a buy-sell agreement, an operating agreement, sales and lease contracts, and estate plans. Let's define each of these components:

BUSINESS STRUCTURE

How you structure your business can affect what legal, financial, tax and long-term planning options are available to you. The U.S. Small Business Administration has a website explaining the different business structures (*sba.gov*)[1]. The following chart is from the website.

[1] 2018, U.S. Small Business Administration, 409 3rd Street, Washington DC, 20416

BUSINESS STRUCTURE	OWNERSHIP	LIABILITY	TAXES
Sole Proprietorship	One person	Unlimited personal liability	Personal tax only
Partnerships	Two or more people	Unlimited personal liability unless structured as a limited partnership	Self-employment tax (except for limited partners) and personal tax
Limited Liability Company (LLC)	One or more people	Owners/Members are not personally liable	Self-employment tax, can elect personal tax or corporate tax
Corporation – C Corp	One or more people	Owners/Stockholders are not personally liable	Corporate tax
Corporation – S Corp	One or more people, but no more than 100, and all must be US citizens	Owners/Stockholders are not personally liable	Personal tax
Corporation – Nonprofit	One or more people	Owners are not personally liable	Tax-exempt, but corporate profits can't be distributed

Do you need to change your business structure? Which sounds best?

BUY-SELL AGREEMENT

A buy-sell agreement is a contract that can control who owns an interest in your business, when that interest can be sold, and at what price. This provides insurance to all business parties against the risks of involuntarily losing a business partner due to retirement, disability, or death. Also, a buy-sell agreement can spell out what each business partner gets if they voluntarily leave the business. Vesting schedules, payment amounts, and payment terms can be arranged ahead of time to afford to lose a business partner and still keep operating.

For instance, the buy-sell agreement vesting schedule can state that a business partner has to stay with the business 10 years before they can withdraw their share. Also, a buy-sell agreement can be written to reduce the payout for a partner who leaves voluntarily or have the payments spread out over time.

Do you need a buy-sell agreement to protect your business from risks?

OPERATING AGREEMENTS

These agreements are what companies (LLCs, C Corporations, and S Corporations) use to designate the chief executive officer, chief operating officer, and chief financial officer. Even though these sound like fancy titles, it is essential that job duties and management are specifically assigned to individuals in your business. This agreement will also spell out how decisions are made within the business (like voting).

An operating agreement can bolster your management transfer plan by specifying when one person's duties become the duties of another. A system of responsibility and accountability is necessary for any business; otherwise, things "fall through the cracks."

Discuss what roles and duties your operating agreement would assign to each business member if you were to write one today.

CONTRACTUAL AGREEMENTS

Often, there will need to be some additional contracts in a business transfer. Every scenario can rarely be covered by just the business entity and buy-sell agreement.

Sales contracts. Many transfers incorporate selling assets to the next generation, even family members. A sales contract will also be used if a gift is made; however, the price tag on the "sale" may be as little as $1.00.

Purchase options. If the younger generation cannot buy the farm right away, a purchase option is an excellent contract to have. This will specify the price, payment methods, and the amount of time the offer remains open before it can be sold to anyone else. This gives the younger generation time to accumulate equity without the fear of losing their chance to buy the farm.

Lease contracts. Maybe some of the assets are going to be leased to the next generation. This is often handled due to its high cost to the junior generation and capital gains taxes (if sold) for the senior generation.

Lease purchase contracts. This combines a lease contract with a purchase option. This is similar to a "rent-to-own" idea. Lease payments can be put toward the purchase price or not, depending on the two parties' goals.

Other contracts. Contracts can be tailor-made to your situation. Often, these contracts will be manipulations of a sales, lease, or lease-purchase contract. One contract, not previously mentioned, is a deferred compensation agreement, often used as a "retirement" payment from the junior generation to the senior generation. Basically, the agreement gives the senior generation a steady income and some stability during retirement, even if they have already transferred the farm assets.

Which sales and lease contracts may need to be drawn up in the future?

ESTATE PLANS & WILLS

Wills and estate plans are basically the same things. The only difference is that estate plans address estate taxes and incapacity. The following are the essential pieces of an estate plan:

Choosing your beneficiaries. Decide who gets your property when you die. A simple beneficiary situation is where the people to whom the property is left are clear. There are no strings attached to the property once it is transferred. Things get more complex if you decide that you may or may not want someone to inherit property, or you want to control what is done with the property after your death.

Providing for young children (under 18). You need to decide who will raise your children and manage the money left to them until they reach 18 years of age.

Transferring your property after you die. This is the "meat" of the Will or estate plan. Below are the most common ways to transfer property.

1. **Wills:** A document used to specify who gets what. You could also designate a guardian for your children. Wills may be subject to probate. Probate is a court process to determine that there are no contestants to the Will or its beneficiaries and that the Will's instructions are followed.

2. **Revocable living trusts:** Similar to a Will, except it avoids probate proceedings. It can be changed at any time (revocable). It may be a good idea to have a living trust if probate proceedings interfere with your business or if you think that there is a good chance that someone will contest the Will.

3. **Pay on death accounts:** Can be used for cash, stock, and bond accounts.

4. **Joint tenancy:** This is a form of ownership where the surviving owners automatically receive the deceased's share of the property. This would be recorded on a deed.

5. **Tenancy by the entirety:** Joint tenancy version for married people. This would be recorded on a deed.

6. **Life insurance:** The beneficiaries are named on the policy, not on the Will—so it avoids probate.

Estate taxes. The death tax. Its bark is a lot worse than its bite for many small business owners. Suppose your estate is subject to estate tax. In that case, you should explore ways to reduce these taxes—primarily by reducing the value of your taxable estate.

Planning for incapacity. Who will handle your medical and financial affairs if you become disabled? What happens if you need assisted living or nursing home care?

1. **Power of Attorney for Finances:** This document gives someone else the ability to make financial decisions on your behalf, should you become unable to do so.

2. **Health Care Power of Attorney:** This document gives someone else the ability to make medical decisions (about you) on your behalf, should you become unable to do so.

3. **Retirement Planning:** Ensure that you build health care costs, prescription drug costs, and possible long-term care costs into your retirement planning.

4. **Long Term Care Insurance:** Should you need nursing home care, you will either pay for it out of pocket, have insurance pay for it, or apply for Medicaid.

5. **Medicaid Planning:** If you do not have the cash to pay for nursing home care and cannot purchase a Long Term Care policy, Medicaid is the only option left. However, Medicaid can place liens on farm assets to recoup the costs of nursing home care. If you are considering transferring farm assets to apply for Medicaid, realize there are penalty periods. Medicaid can "look back" and place liens on transferred property. This penalty period is generally three years for gifted property and five years for property placed into a trust. For more information on Medicaid planning, talk to an specializing in elder law.

Making changes to your Will. You can change your Will at any time, for any reason, as long as you are mentally competent and haven't been unduly influenced by somebody else. Some changes cannot occur, such as disinheriting your spouse. Check with your lawyer for an explanation of these exceptions.

Update your Will and plan for the incapacity of the owner.

Checklist of items to complete before moving to the next section:

- ☐ We have all the essential papers organized.
- ☐ We have an idea of what contracts and agreements need to be made and what risks these agreements should protect our business against .
- ☐ We have planned for the incapacity of the current owner(s).
  - ☐ We have an updated Will. We have designated someone to be a durable power of attorney.
  - ☐ We have completed a health care proxy agreement.
  - ☐ We have researched the need for long term care insurance.

APPENDIX

WORKSHEETS

PART ONE: PERSONAL GOALS

1. Personal: Why are you in business?

2. Personal: Why do others (spouse, employees, etc.) think you are in business?

3. Personal: What do you hope to accomplish in your lifetime?

PART TWO: BUSINESS GOALS

4. What will your farm look like in 10 years?

5. What will your farm look like in five years?

6. What about a year from today?

PART THREE: MAKING CHANGES IN YOUR BUSINESS

If your farm will be different in the future

7. What will you change?

8. How will you make that change?

9. Who is responsible for making that change (you, spouse, employees)?

10. When will the change take place?

11. How will you know when you have succeeded (how will you measure the change)?

RETIREMENT PLAN

DATE	RETIREMENT ACTIVITIES	RETIREMENT INCOME

EXAMPLE RETIREMENT PLAN

DATE	RETIREMENT ACTIVITIES	RETIREMENT INCOME
2020	None	Livestock payments from junior generation. Save money for later in an investment of some sort.
2022	Slow down farm duties, only help with cropping operations.	Social Security Starts (age 65) Receive livestock or rent payments from the junior generation.
2023	Volunteer work, hobbies, etc. Only help as needed on the farm.	Sell equipment for some cash. Receive livestock and/or equipment rent payments from junior generation.
2026	Complete Retirement.	Collect lease payments from land and buildings to supplement Social Security.
2027	Living in Florida, fishing every day.	Exercise purchase option on leased assets. Payments start on land & buildings. Social Security income.
2028–?		Payments received (lump sum or over time) for land & buildings to supplement. Social Security income.

FINANCIAL DASHBOARD WORKSHEET

Developed by: Dr. David Kohl & Scott Mickey

PRACTICE	VULNERABLE	RESILIENT	AGILE	YEAR:
1. Working Capital Sufficiency	< 10%	10 – 25%	> 25%	
Formula: (Current Assets – Current Liabilities) / Operating Expenses				
2. Cash to Current Assets	< 5%	5 – 15%	> 15%	
Formula: Cash / Total Current Assets				
3. WC Burn Rate: Debt Services	< 1:1	1:1 – 5:1	> 5:1	
Formula: Working Capital / Term Debt Payments				
4. Equity to Asset Ratio	< 40%	40 – 70%	> 70%	
Formula: Total Equity / Total Assets				
5. Core Equity Burn Rate	< 3:1	3:1 – 7:1	> 7:1	
Formula: Excess Reserves / (EBITDA – FL – Interest – Debt Payments)				
6. Debt Efficiency	> 6:1	3:1 – 6:1	< 3:1	
Formula: Term Debt / EBITDA				
7. EBITDA Efficiency	< 15%	15 – 30%	> 30%	
Formula: EBITDA / Revenue				
8. Asset Turnover	< 30%	30 – 70%	> 70%	
Formula: Revenue / Total Assets				
9. Rate of Return on Assets	< 2%	2 – 8%	> 8%	
Formula: (EBITDA – FL – Depreciation) / Total Assets				
10. Family Living Withdrawals	> 25%	15 – 25%	< 15%	
Formula: FL / EBITDA				
11. Term Debt Coverage Ratio	< 110$	110 – 125%	> 125%	
Formula: (EBITDA – FL – Op Int) / Term Debt Payment (P&I)				

MANAGEMENT DASHBOARD WORKSHEET

Developed by: Dr. David Kohl & Scott Mickey

PRACTICE	VULNERABLE	RESILIENT	AGILE	IMPROVEMENT STRATEGY
1. Product/Service Marketing Plan	None	Written	Written & Executed	
2. Cost of Production by Enterprise	None	In Your Mind	Written Budgets	
3. Business Plan	None	In Your Mind	Written & Used	
4. Succession Plan for Assets & Management	None	Written	Written & Executed	
5. Advisory team	None	Developing	Established & Used	
6. Risk Management Plan	None	Developing	Written	
7. Lifelong Learning/Training	None	Developing	Definite Plan for Management	
8. Goal Setting	None	Developing	Written & Executed	
9. Environmental Conservation Plan	None	Developing	Written	
10. Financial Plan	None	Plan in Your Mind & Executed	Written Plan, Executed & Monitored	
* Business Principle Defined	None	Working on 7 Steps	7 Steps Written & Posted	

MANAGEMENT TRANSFER PLAN

DATE	WHAT AREA OF MANAGEMENT?	WHAT RESPONSIBILTIES?

EXAMPLE MANAGEMENT TRANSFER PLAN

DATE	WHAT AREA OF MANAGEMENT?	WHAT RESPONSIBILTIES?
2002	Management of Youngstock Transferred	All responsibility from calving to springing heifers.
2005	Management of Dairy Barn Transferred	All responsibility for feeding, cleaning, and milking cows
2009	Management of Cropping Transferred	All responsibility for planting, spraying, and harvesting crops
2013	All Management Transferred	All farm decisions, both production and financial.

ASSET TRANSFER PLAN

DATE	WHAT WILL BE TRANSFERRED?	HOW WILL IT BE TRANSFERRED?

EXAMPLE ASSET TRANSFER PLAN

DATE	WHAT WILL BE TRANSFERRED?	HOW WILL IT BE TRANSFERRED?
2002	Begin Transfer of Livestock (Gifting Half of Herd).	Gifting (mom & dad) over a period of 5 years. $11,000 each (22,000 times 5 years = $110,000.
2002	Begin Transfer of Livestock. (Selling Half of Herd).	Installment Sale to next generation. $2230 a month for 60 months.
2002	Transfer Youngstock.	All new calves are given to next generation if herd payments are met.
2007	Herd Transfer is Complete.	All payments are made in full.
2007	Transfer Equipment (Sell outright)	Sell all equipmpent to next generation, with bank financing (5–6 years).
2012	Payments for equipment are finished.	
2012 / 2013	Begin Land & Building Transfer	Long term lease, with payments going towards principal. (Lease-purchase option) 10 years.
2022	Land & Building Transfer lease expires, purchase option taken.	Purchase remaining land on land contract, with a note held by the senior generation. 10-year note.
2032 OR Upon Death	Payments on Land Contract done. Balance of Estate is transferred.	Farm Transfer is complete. Property Transfer through Will, Estate Plan, and/or Trusts.

BUSINESS TRANSFER PLAN OUTLINE

YEAR	RETIREMENT PHASE-IN	MANAGEMENT TRANSFER	ASSET TRANSFER

EXAMPLE BUSINESS TRANSFER PLAN OUTLINE

YEAR	RETIREMENT PHASE-IN	MANAGEMENT TRANSFER	ASSET TRANSFER
2002		Transfer Youngstock Responsibilities	Begin Livestock Transfer
2003			
2004			
2005	Slow down, do only hay & corn	Transfer Dairy Barn Responsibilities	
2006			
2007			Livestock Transfer Complete Begin Equipment Transfer
2008			
2009	Only help as needed	Transfer Cropping Responsibilities	
2010			
2011			
2012			Equipment Transfer Complete Begin Land & Building Transfer
2013	Begin Retirement	Transfer Total Responsibility (Transfer Checkbook)	
2014	Start Fishing		
2015	Buy Motorhome		
2016	Travel USA		
2017	Travel USA		
2018	Move to Florida		
2019			
2020			
2021			
2022			Land & Building Transfer Complete

ESTATE PLAN

DATE	WHAT NEEDS TO BE DONE?	HOW?

EXAMPLE ESTATE PLAN

DATE	WHAT NEEDS TO BE DONE?	HOW?
2002	Prepare for business continuation if the owner is disabled.	Set up a durable power of attorney for health care and finances.
2002	Prepare for business continuation if the owner is disabled.	Check out/buy Long Term Care Insurance.
2002	Prepare for business continuation if the owner dies.	Check out/buy Life Insurance. Update pay-on-death accounts. Update deeds to property (if needed).
2002	Prepare for business continuation if the owner dies.	Update Will as soon as possible. Choose beneficiaries, provide for family and young children.
2002	Prepare for business continuation if the owner dies. Avoid Probate.	Check out/draft a Living Trust to avoid probate.
2002	Prepare for business continuation. Avoid estate tax if the owner dies.	Visit with the accountant. Explore gifting and trust strategies.
2002	Start Transfer of Property	Create gifting schedule to start gifting livestock over the next 5 years.
Upon Death	Balance of property is divided among heirs. Farm debt forgiven.	Living trust passes property through. Farm is given to next generation on death.

NOTES

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