Example: Multiple Related Families own the Farm Operation

This family farm is owned by four families. It operates a cattle feed-yard, farms row crops, raises hay and does custom work. Total farm assets are $24MM. The four brothers run in ages 55 to 66. Each family has four kids and three of the families have kids working on the farm. Two families have two children in the operation, and one family has three. They had no operating agreement for the business, which is a "C" corporation. All the farm assets are in the corporation.

There were numerous issues we dealt with for this family, and the major ones we addressed are outlined briefly ***below.***

1. **There was no "buy-sell" agreement to outline the process of transferring ownership if one of the owners retires, dies, or is disabled.**
   - There was no source of funding the buy-sell agreement; it would have to be entirely self-funded
   - There was no mechanism to describe the method to be used to value the assets
   - The rights of each owner to buy or be bought out
   - Who could purchase the available shares, and in what amount?
2. **The assets were all owned in a "C" corporation, so if any of the owners wanted to leave and the other owners wanted to move property to them, there would be inherent tax issues to be addressed.**
3. **There is no operating agreement for the farm that details how operating decisions are made. That has worked for the four brothers, as they own equal shares and have been able to make decisions together.**
   - The larger issue is how the children will operate the business jointly, as cousins
   - They need to create an operating agreement to outline how decisions would be made going forward so the cousins have a blueprint for running the farm operation when they take over
   - They had no direction on how non-operator owners would participate in income and expenses of the farm
4. **The owners had not coordinated their personal estate plans, which would specify how their share of the farm ownership would pass to their children, with each other.**
5. **The owner with no children in the farm split his estate equally between the children in their estate plan.**
   - There was no thought given to how income would be passed to these children, how they would be assessed for expenses to operate the business, or how they would participate in management decisions
   - There is no mechanism describing how these children can sell their shares if they want to leave
   - There is no liquidity for a buyout if all parties can agree on this family selling their shares back to the corporation

6. **The three families with children in the business had all done estate plans that specified the following:**

- The family with three children in the business had made plans to split the farm ownership equally between the farm children and had made arrangements to provide other assets for their non-farm child so they would own no farm assets
- The other two families split the assets equally between all their children, so the non-farm children would get farm ownership
- These two families will each have two children who will be owners but actively farming

Those children will have:

- A minority interest in the farm
- No control over the asset or its management
- No liquidity if they need it
- Limited income from their ownership

ACTIONS TAKEN:

- Established a buy-sell agreement for the farm
- Specified a method to value the corporation
- Defined who could own and vote shares
- Outlined how the process works if someone retires, dies, is disabled or wants to exit the farm corporation
- Created funding plan for any owner leaving
- Reviewed possible changes to corporate structure or ownership to determine if more flexibility can be provided for ownership changes
- Created an operating agreement for the corporation outlining management processes for both current and next generation of owners
- Each family reviewed their estate transfer plans and updated them to match their current goals for the farm and their family
- Families with no children in the farming operation now have a path for separating from the family business
- Families with successor operators built a funding plan to create predictable liquidity to acquire the farm property from this family
- Family with three children working on the farm want those three to get all their family's farm assets. They had assets outside the farm operation that would go to the non-farming child. They created a plan to assure this happens.

- Two families with two children farming both made plans for the transfer of their farm and other assets
- One family chose to keep farm property in all four children's names. They will rely on the buy-sell and operating agreements to allow them knowledge of how they will share income and their exit options if desired
- Second family wanted to provide an option for their own farming children to own all the farm assets their family currently controls
- Created a plan for liquidity to assure smooth transfer between the children
- All three families with farm children used a "sweat equity" discount for the farming children

This is just one example of how a family farm can be transferred successfully. There is no single way to do it. It requires you to consider many factors including the makeup of your assets, the family relationships now and in the future and the cost of each alternative to name a few.

Questions? Contact Douglas Krasne, Insurance Planning Resource
Phone: 402.850.7368 | **Email:** acres4ever@gmail.com