

Trade of property eliminates tax

By JERRY WEBB
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NEWARK, Del. - In the early days of American agriculture, a farmer who felt hemmed in by too many neighbors could just load up and move west. Plenty of land was available for the taking. That option has long since disappeared, but there is still a fairly painless way to escape some urban pressures. That is to simply trade farms. If handled properly, a trade can be done tax free.

Some time ago I visited one of those traded farms - a fairly large farm near Chestertown, Maryland, where a new swine operation had been set up. I was told that the owner had traded one small farm in the Baltimore-Washington me-

galopolis for three farms in the land of pleasant living. It sounded like an excellent trade to this old country boy who grew up in a community where trading horses was common. I once traded 20 bushels of oats for a pretty good old horse and didn't have any tax problems, but I wondered about trading something as large as a farm.

It's perfectly legal in the eyes of the Internal Revenue Service - a farmer can swap one farm for another without the tax burden that goes along with selling a farm.

Section 1031 of the tax law says property held for productive use in a business or for investment property of "like-kind" which is also to be used the same way. As long as the

trade involves property of "like-kind", there is no accounting of any gain or loss and virtually no taxes due.

So the Delmarva farmer mentioned above was able to trade a small farm in the midst of suburbia - one that was quite valuable to a developer - for a much larger spread in a more desirable agricultural area.

How was this accomplished? I don't really know the fine details, but in general it went like this: The farmer was approached by an investor who wanted to buy the place. Knowing the tax pitfalls involved in outright selling, the farmer suggested a trade - for land of equal value in an area where he wouldn't mind moving. It then became the buyer's problem to assemble the farms acceptable to the farmer. These were purchased by the investor and traded even up for the one farm in suburbia.

The exchange met the test of "like-kind", so the farmer had no tax burden. He also avoided the problem of selling a farm and then trying to find another one in

the short period allowed by the capital gains law. He let the investor do the work. After all, it was the investor who wanted the suburban farm so it was only fair that he arrange the swap.

There are many variations on this farm swap idea with many opportunities for farmers to get much larger acreages, away from crowded, complaining urban neighborhoods. Swapping isn't limited to land. The law just says property - that includes machinery, livestock, fence posts, and many other things. It must be business connected, however. It might be tough to explain the swap of a saddle horse for a snow mobile.

The "like-kind" definition is pretty broad and covers a lot of possibilities. There seems to be no problem trading a hog farm for cropland or a vegetable farm for a beef farm. The courts have said it's even o.k. to trade a farm for an apartment house.

Maybe the farm swap offers a retiring farmer a way to divide his holdings. First, trade for as many parcels as needed, then in

an orderly fashion transfer these as complete units to the apparent heirs. That might be much more palatable than selling the home place and dividing the money.

Here's a case where good legal advice is needed. And no doubt where farmers need a lot more information than can be presented here. But maybe this will start some of them thinking.

Auction set

LEBANON - A disaster relief auction will be held at the Lebanon Fairgrounds, September 17, sponsored by the Northeast District Churches of the Brethren. The sale will begin at 10 a.m., with breakfast being served from 7 a.m. on.

The sale will offer crafts, antiques, furniture, comforters and quilts, paintings toys, and homemade food. The money raised through the sale will be used to help victims of the Johnstown flood disaster area.

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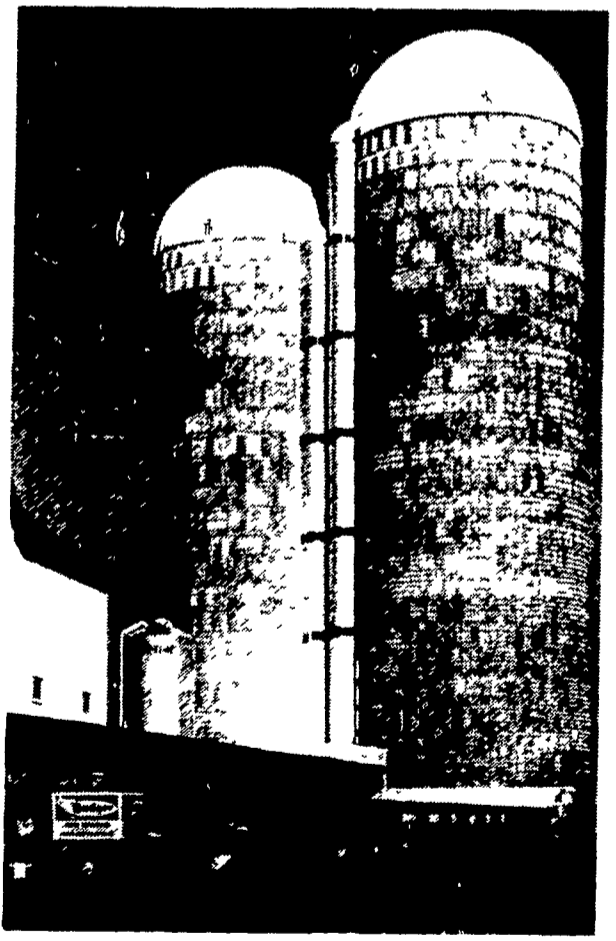
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