

Will a partnership work for our estate?

BY SHEILA MILLER

LITITZ — One of the tools available to farmers and small businessmen in planning their estates is the partnership.

Similar to tenancy in common (where each person owns a percent of the property), a partnership sets up a system where each partner's share is owned entirely by the individual. This share is the only portion of the partnership that can fall in the decedent's estate.

According to the Penn State Circular 567, Estate Planning for Pennsylvania Families, "the value of the deceased partner's share can be transferred as spelled out in a partnership agreement, if there is any, or by the decedent's Will, or by the laws of inheritance."

So, once the value of the partner's share is determined, it enters that individual's estate. Penn State points out that only the value can be transferred—not the partnership itself.

"A partner cannot transfer the right to be a partner in the partnership. The old partnership terminates upon the death of any partner, unless special provisions are made."

Is a partnership a feasible idea for a farm?

Richard Dennison, of the Pennsylvania Farmers Association's legal services stated that it is a method for bringing the next generation into the business without a large capital outlay.

"A parent may decide to have one of the children in partnership. That young person may have limited capital."

"To overcome this, Mom or Dad could rent the cattle and equipment to the child under a partnership agreement. Any new

equipment and cattle would be bought by the partnership.

"In about 5 years, the young farmer would have half interest in the cattle under normal culling, and in 8 years would have half interest in the equipment without going into debt, except for the dollars laid out to make the new equipment purchases".

This 'growing-in' management is an alternative to the parents having an outright sale of half interest to the child, eliminating income tax consequences for the parents. But, Dennison admitted, there are situations that might require an outright sale.

"If an outright sale is the only choice, even if the parents sell out over a period of years," he added, "it would be considered an installment sale where a minimum of 6 percent interest would have to be collected."

Dennison spoke primarily of a parent-child partnership. Concerning a husband-wife partnership, he said "In my opinion, there will not be many formed."

His reasons behind this statement stem from social security and its benefits.

"A legal partnership would allow the husband and wife to both pay social security for proof of farm ownership. But unless the husband is earning more than what he could claim under maximum social security, this wouldn't make much sense because the wife can generally collect on his social security. If this earnings are reduced so that she can pay social security, their eventual pay out may be lower."

Jessee Cooper, a farm



- capital available;
 - expense to organize and operate;
 - taxes;
 - legal entity;
 - life of business;
 - and ease of transfer.
- Cooper also pointed out the

need to analyze the family situation: age, education, marital status, goals and objectives.

The farm business needs to be looked at closely, he

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management specialist from Penn State pointed out that when considering a business organization like a partnership, the following items need to be studied:



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