

Tax law enables farmers to escape inheritance tax

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LANCASTER — As a result of the new tax law, almost all Lancaster County farms may be passed on to family members free of Federal Estate Taxes. But not without proper estate planning and, in the case of larger farms, use of the special farm valuation election.

For example, a \$450,000 farm passing from father to son could bear a tax of \$76,000 in 1982. By splitting the farm between husband and wife, and using a testamentary trust, the taxes are reduced to zero. The saving is lost if one spouse dies before the farm can be split.

Under the new divorce law, property is equitably divided between the couple regardless of

who has title, so splitting the ownership does not carry the risk it once had.

Most families would like to own their farm jointly, and that is now the thing to do with farms valued under \$250,000.

The Pennsylvania Inheritance taxes for farms has also been reduced to only tax the farm valued as a farm, and not its highest and best use.

If a couple does not want to divide the farm, they have to use the special farm valuation rules. If a farm is in an area ripe for development, its value as a farm will be much lower than its value as a development. These farms get special treatment.

The amount a farmer can deduct from the highest and best use

valuation will go up in the near future:

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| 1980 | \$500,000 |
| 1981 | 600,000 |
| 1982 | 700,000 |
| 1983 | 750,000 |

But there are many strings attached.

First.

Ten Year Financing Requirement. Under the new law, the farm cannot be sold for development for ten years. There is, however, allowance for a like-kind simultaneous exchange to sell and purchase another farm.

Second:

Uncle Sam Becomes A Partner. When the farm valuation election is made, Uncle Sam becomes a partner in the farm by putting a ten year lien on the farm for the

full estate tax. If at any time the farmer needs to borrow money, IRS has to be asked to lower the priority of its lien in order for the loan to go through.

Third:

Active Farm Management Required Of Heirs

Gentlemen farmers who just lease the farm do not qualify as farmers. While driving a tractor is not necessary, active farm management is required of heirs who utilize the special farm valuation. The new law, however, gives heirs a two year period to

start farming.

Fourth:

Material Participation Required Of Decedent.

The decedent must have materially participated in farming for five of the eight years preceding his death, disability or retirement.

Fifth: Timely Election.

The election for farm use valuation must be made when the estate tax return is filed. Under the new law, the election can also be made if the return is filed late. Of

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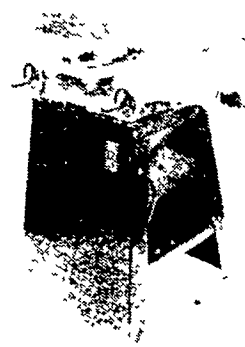
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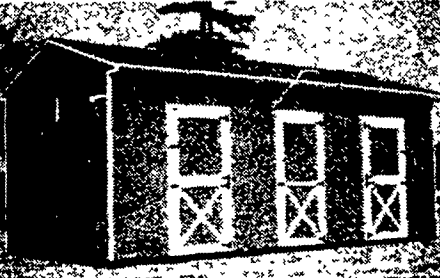
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