



Brockett's Ag Advice

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Farm Business Transfers

How can a farm business be transferred from one person to another? The question is not as simple as it would appear. There are a number of things that everyone concerned must consider before action takes place. First let us explore some of the items that a person must think about before embarking on the not so easy road of an actual transfer. After reading these over, perhaps you will begin to see the potential complexity of a farm business transfer.

Some Major Considerations

Tax implications are often a major concern, as they well should be, but some people only consider one or two taxes instead of the entire group. A farm business transfer may involve local, state, and federal income taxes. It also may involve gift, inheritance, and

federal estate taxes. In some cases there could also be transfer and real estate taxes. Finally, a business transfer may directly affect social security taxes and social security benefits. All of these taxes should be considered before deciding on the best way to transfer the business.

Affordability is often overlooked in the desire to keep the business perking along under new management. It is important to consider the big question, "Can this business generate enough income for the buyer or acquirer to make the payments?"

Economics for the Transferor may be neglected if those wishing to transfer a farm to a family member in the least painful way for that member do not do some serious pencil pushing. Will the

transfer provide the transferor enough income to maintain a reasonable standard of living?

Subsequent transfers may be a forgotten issue until it is too late. Farm property may be lost to a family through divorce, death, a forced sale, or just plain "tired of farming".

Security is somewhat connected to the economics issue. However, it may actually be more than an economic problem. Those of us who have passed through a large part of life realize that if we do not take care of ourselves, we may be out in the cold. Owning property or a guaranteed home or something tangible may mean peace of mind that can actually enhance physical and mental health.

Transfer Methods

Outright Sale is possibly the most common method of transfer. In this case the seller determines the price and terms and the buyer borrows the money from somewhere including the seller. The deed changes hands and each party is left to pay his or her own taxes, invest his or her own money, and make his or her own decisions independent of the other party.

Installment sale is another way to sell or transfer a farm business. An installment sale simply means receiving payments over a period of time, usually in excess of a year. It can be secured by a mortgage

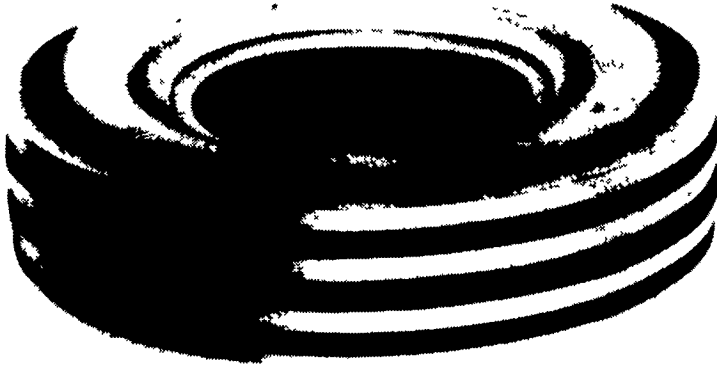
(real estate), a note (usually other than real estate), or a sales contract (a type of promissory note). Present tax laws make some installment sales a poor choice. Sales of equipment are no longer feasible candidates for installment sales because federal income taxes will be charged on the entire profit of the sale in the year of the sale. Thus a seller could actually pay more in taxes than he or she received for the property in the year of the sale.

An **annuity** is a special type of installment sale whereby the sale usually is completed with the death of the seller. The seller actually has little or no security. Changes in the federal estate tax laws have probably helped to cause this method to be a less viable alternative.

Gifts can often be used to advantage if they are well thought

out. There are a lot of considerations that should be made before a gift is used in any major transfer situation. Gifts are usually most useful as a way to partially transfer the farm business. Gifts under \$10,000 are often called "tax free". This may lead a person into a trap. They are free from "gift taxes" but may cause income taxes, since the cost basis of the gift for the person receiving the gift is the same as the cost basis of the gift when the person giving the gift owned it. Thus income generated by the gift or income from the sale of the gift may be taxable.

Inheritance is another way to transfer business assets. In Central Pennsylvania most farm businesses are no longer subject to federal estate taxes because of a combination of tax credits and valuation options.



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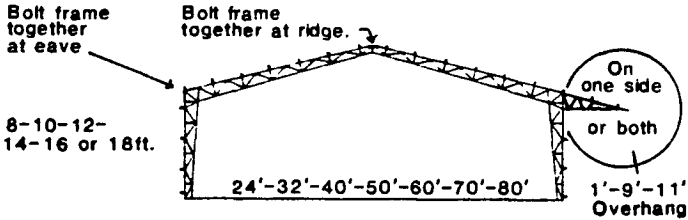


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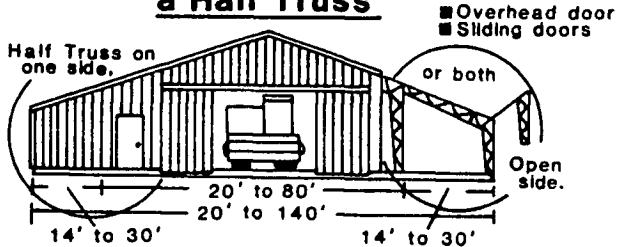
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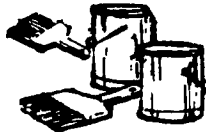
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