



# TODAY DECIDES TOMORROW PLAN NOW TO COMBAT ESTATE TAXES

by UCCE Livestock Farm Advisor Tracy Schohr

A LEGACY is the summation of a lifetime of achievement and how that lifetime will be remembered. The Ag Legacy Symposium on Feb. 25, 2023, held at the Chico State Farm brought together ranchers, farmers and agri-business owners to prepare the next generation of managers and owners. The event featured sessions on legal aspects, financial topics, political factors, family dynamics, and provided real-life scenarios for participants to consider incorporating into their succession plan. This feature is the third of three on Ag Legacy, highlighting managing estate taxes.

Each year there is a resounding grumble from farmers and ranchers about the amount due to the government for income taxes and property taxes. To mitigate these annual tax challenges, you consult with an accountant to balance your expenses, investments, taxes codes, expansion goals, market fluctuations, government programs, and the list goes on. This annual or perhaps more frequent conversation with your account is focused on the here-and-now tax challenges facing your operation, with the ultimate goal of keeping more money in your pocket! However, farmers and ranchers must expand those conversations well into the future for the most optimal management of their estate taxes. Let's be honest, you are not willing to pay extra to the government on an annual basis, so are you prepared to not pay extra as your operation transitions to the next generation?

## BUILDING BLOCKS

There is a plethora of building blocks farmers and ranchers can utilize to build their estate plan. A simple plan may include a will and a trust, but as your business grows and assets appreciate in value with time, those simple planning strategies will not be sufficient. Therefore, you need to take a closer look at all possible estate planning strategies, many of which can be confusing and complex.

"As a farmer or rancher sitting here today, you may feel overwhelmed with the details of estate planning and tax implications presented," stated symposium speaker and accountant Tommy Irvine, principle at Pinion. "The reality is there are many strategies, and you should rely on your trusted team of advisors to help you plan your Ag Legacy with the best tool to meet your future desires while managing estate taxes."

## FOUNDATIONAL ESTATE DOCUMENTS

Your estate plan can be viewed as a set of building blocks. Working with a team of trusted advisors to identify what blocks will work best to build an Ag Legacy that will meet your individual desires while taking into consideration your unique ranching operation.

During the symposium, Irvine discussed the fundamental estate documents for farmers and ranchers:

- Revocable Trust: Established during your lifetime and will avoid probate (discussed in article two in this series)
- Pour-Over Will: Funds any assets not properly titled into the Trust (backup plan)
- Powers of Attorney: A "General Durable Power of Attorney" will identify who will be responsible for keeping your business moving forward on your behalf in the event of your incapacitation. Whereas the "Medical Power of Attorney" will identify who will make health care decisions on your behalf.
- Advanced Medical Directive/Living Will: This will set forth your wishes for end-of-life decisions.

"To keep your family farm or ranch in the family it takes planning and a variety of tools," stated Irvine. "There is not a one size fits all estate plan, but these foundational elements are essential building blocks to a plan that will work to meet your goals."

## LIFETIME ESTATE AND GIFT TAX

During the Ag Legacy Symposium Irvine discussed the opportunity to take advantage of the double estate and gift tax exemption that sunsets on Jan. 1, 2026. Currently, the bonus exemption is \$12.9 million for an individual (\$25.84 million for a couple), and in 2026 will revert back to the base value between \$6-\$7 million.

"If you don't plan on dying in the next three years or before the law changes, then use it," stated Irvine. "We can't predict what Congress will do in the future so take advantage of the current laws. You can use this higher exemption before 2026 to transfer assets to the next generation and minimize future estate taxes."

## GENERATIONAL SKIPPING TAX EXEMPT TRUST

Estate taxes can be a hefty burden for land-rich and cash-poor enterprises like ranching. By setting up a Generation Skipping Tax Exempt Trust assets remain in this trust and are not included in each generation's estate and therefore not subject to estate taxes.

"By skipping a generation, thus passing on the farm to your grandchildren vs your children, you can prevent the inheritance from being subject to estate taxes twice," shared Irvine. "This is an important tool to consider since anything above the exemption amount (\$12.9 million until 2026, then \$6-7 million) will be taxed at a rate of 40 percent."

## TRADITIONAL TOOLS

When navigating the alphabet soup of estate planning with your team of trusted advisors you are considering tax codes, newer tools, sunsets by Congress and more. Irvine shared during the symposium traditional tools to consider for your estate plan that still work:

- **Gifting:** The current annual exclusion is \$17,000 per person. In addition, payment of medical and tuition paid directly to the institution on behalf of others(s) are also an exemption to the gift tax.
- **Portability:** Allows the surviving spouse to add the unused exemption of their deceased spouse's estate to their own, however, if the surviving spouse remarries it is lost.
- **Discounting of Business Entity:** By gifting or selling part of the business to the next generation, creating fragmenting business ownership with minority shares resulting in the value of the business to be reduced for estate planning purposes.

## DIFFICULT DECISIONS

When creating your Ag Legacy Plan, you will face big decisions. Decisions on the people to work with – accountant and lawyer and decisions

on the tools to use. You will also have decisions to make on the who, what, when, where and how it will all take place. When participants were asked during the symposium what was their greatest concern about their Ag Legacy, 41 percent reported estate taxes and 34 percent reported family communications/conflicts.

These paramount concerns were also shared by farmers and ranchers who also spoke at the symposium. It is recognized that the senior generation is juggling emotions, politics, finances, and taxes while still running the day-to-day business operations. The senior generation is presented with difficult decisions, such as determining who will get what and even grappling with gifting part of the land or business away today. Giving up control can be hard, and emotions run deep. However, if you allow emotions to determine your path or allow fear to get in the way of action, the estate's financial ramifications at passing can break the family farm or ranch.

When it comes to estate planning take a moment to look at the family business as a business, putting emotions on a shelf per se. For example, if it is suggested to give up 5 to 15 percent of the business ownership or land holdings

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Farmers and ranchers attend the Ag Legacy symposium in Chico to learn more about succession planning while Tommy Irvine and Kasey DeAtley share perspectives.

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today, listen closely to the reasoning and the financials. These business changes can potentially prevent unnecessary tax burdens on your heirs.

We have all heard the saying, "The only thing in life that is guaranteed is death and taxes." It is important to not get trapped trying to juggle this alone, rely on your team of trusted advisors to do something, because if you don't, the government and courts win when you fail to plan!

### ESTATE PLANNING IS A JOURNEY

Once you complete your plan, it is never done! Take the time to keep it up-to-date and relevant.

"It is good to review your plan after trigger events. That is anytime a significant change takes place in family dynamics, business changes, or policy changes," stated Irvine. "At a minimum, it is good to review your plan every three to five years with your accountant and attorney."

### TODAY DECIDES TOMORROW

The symposium brought together multiple generations from farms and ranches across Northern California to learn, share and connect. It was a day to start building and refining Ag Legacy Plans, diving into the tax codes, legal aspects, and to hear stories of success and tribulations.

"The reality is that even a well-executed estate plan that is not communicated prior to the loss of a family member is still stressful while navigating grief. Having a poor plan - or no plan - will take years of time, effort, and capital to sort out. I encourage

you to do the work now to leave your mark and not a mess," shared event co-host and moderator **Kasey DeAtley, Ph.D.**, rancher and professor at California State University, Chico.

Future Ag Legacy events are being planned for later this year and in 2024. If you are interested in learning more about these events, please see <https://surveys.ucanr.edu/survey.cfm?surveynumber=40630>.

The event was hosted by DeAtley, Eric Houk, Ph.D., California State University, Chico and Tracy Schohr, University of California Cooperative Extension, with support from Chico State Young Cattlemen's Association. Sponsorships for the event were from the California Beef Cattle Improvement Association, Butte County Cattlemen's Association and USDA-NIFA Grant.

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