



# Developing a Written Transition Plan Outline

## Agricultural Business Management

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### Introduction:

Developing a written transition plan outline is an important part of a successful farm transition. The process necessitates discussion between involved individuals resulting in a more focused plan. It clears up questions and potential misunderstandings. The completed plan outline provides a "road map" to follow even though you may have to make a few detours. It provides all parties with an early commitment to follow through with all phases of the transition process.

The entire process should be based upon your individual, family, business/retirement goals. See *Transferring the Farm Series #1-Preparing to Transfer the Farm Business*.

### Who Should Be Involved in Plan Development?

If the transition is between two or more families, it is important that all entering and exiting parties and their spouses be involved in developing the plan. Spouses, who are informed about the plan and actively involved in plan development, are more supportive than if not involved in the process.

There are a number of steps involved as well as a whole host of questions you will need to address. The process is outlined in this information piece.

A very crucial member of your "transfer team" is an attorney well versed in business transfer, estate planning, elder law (long-term health care planning) and disability planning.

A second key contributor to the development of your transfer plan will be your tax accountant. He or she will make sure your plan makes good tax sense.

There are several other individuals that need to be on your transfer team and can be instrumental in the development of your transfer plan. They might include your banker or financier, your insurance agent, your financial planner, your adult farm management instructor, etc.

When your plan is nearly developed, you may want to seek your attorney's opinion. Ask them to review your draft and make comments. The key here is to have a solid outline of your transfer plan before

going to the attorney and drafting all the necessary legal documents. That will save you time and money. It is a good idea to inform or involve the non-farm heirs as to the details of the plan. Point out to them that you are taking a business-like and systematic approach to transferring the business. Let them know why you have chosen to do certain things. Share with them your goals for the farm business and that the steps being taken are necessary to achieve those goals. This process alone can greatly reduce potential clashes within the family.

### What Should Be Included in the Plan Outline?

The key is to develop a plan that fits your situation. Do not use a generic plan or template because it may not fit your farm transition situation. The attorney and accountant especially, should have the skills to design the plan unique to your situation. If they cannot, find someone who can.

Include as many specific details as possible. Details make it more useful and reduce future questions. Again, base the plan on your goals. Here are some items to think about.

- How will the land be rented? What are rental rates and payment dates? How will rental rates be determined in the future?
- How will the machinery be transferred - gift, sale, lease with piecemeal buyout or exchange of labor for machine use? Who will pay the insurance, fuel, major and minor repairs? When will the machinery be transferred?
- How will livestock be transferred - lump sum sale, gradual sale, shared income for a few years, or livestock share lease?
- How will buildings and the house be handled? Use rent free? If not, what rental rate? Is it included with land rent? What arrangements are made for the transfer, sale, gift, or tax free exchange of real estate? Who will pay for insurance, real estate taxes, repairs, and utilities? Does the plan make maximum use of the Minnesota Homestead Credit?
- Are arrangements made to improve the security of the entering farmer - life insurance on parents, a

buy-out provision giving the option to buy assets later, parents' living trust or Will to bind other heirs to sale terms?

- Will land be sold? If so, when and how will price and terms be determined? Would a buy-sell agreement be in order?
- Have adequate and acceptable housing arrangements been made for the long run? Is everyone happy with those arrangements?
- If parents will be working for their children, what is the method and rate of compensation? How much will parents be expected to or want to work on the farm after retirement?
- If families will be working together through several transition years, who will be responsible for what segments of the business? Who will be responsible for and manage the livestock, crops, machinery, marketing, farm records, employees, etc.? How will work be divided? Are hours and vacation times agreeable to all?
- What are the arrangements for transition of management and who is responsible for overall decision making? In other words, who has the final word and when does that right transition to the next generation?
- How will the debt be handled? Does the entering farmer assume the existing debt, borrow elsewhere and pay off old debt? How will this impact existing farmer's tax situation?

#### **When Should a Plan Be Established?**

The sooner a plan is established and implemented, the more confident the participants will feel. Once you decide to transfer the farm, the planning process should begin. The plan should provide for the complete transition of the business, so it may have to cover a period of 10 years or more.

#### **Put The Plan In Writing!**

Putting the transfer plan in writing is a must. If not written down, details are easily forgotten and often misconstrued as time goes by.

After a first writing, all farming parties should review the plan and check it against your goals and you may want to verify it with your transfer team members. As soon as the document has agreement from everyone involved, a final transition plan can be completed.

Once agreed upon, the plan can be implemented by going to your attorney and having the necessary documents, etc. drafted and signed. All involved farming parties should read and sign the final agreement.

Once the final version is complete and signed by all farming parties, parents should make arrangements for a family meeting where they share their plan.

Begin with sharing goals and then what was done in the plan to carry out those goals. The plan may not be popular with non-farm heirs but at least they are aware of what was done and why.

If the farm business changes over time or the environment in which the farm business operates changes in the future, it is crucial that all parties review the transition plan. If necessary, the plan can be modified to reflect the current situation.

#### **Example Plan Outline:**

- Parents will purchase a house in town.
- Farming heir (s) purchase farmstead.
- Land will remain in parents name until death and will be rented to the farming heir(s) at 75% of high end rents in the area.
- Equipment will be gifted at \$13,000 per year and farming heir(s) will buy all equipment not owned in 10 years.
- Livestock, grain and feed will be sold over three years with farming heir(s) buying what they want and can afford.
- Parents will provide labor as available but farming heir(s) should be able to complete work without parents.
- Life insurance proceeds will go to non-farm heirs along with the house in town and investments.
- Farming heir(s) will get the farm land.
- Parents will establish a Revocable Living Trust with pour over Will for all assets moving into the trust. It will include bloodline language and protective trust provisions.
- Trustees/Co-Trustees of the trust are the parents. Upon their death specified children as successor trustees.
- Parents will establish Common Law Durable Power-of-Attorney and all associated documents.
- Parents will establish a Disability Panel: current physician, specialist, and specified children on the panel.
- Parents will complete a Health Care Directive with HIPAA authorization.
- Parents will establish a South Dakota LLC as the farm business operating entity.

Developing a transfer plan is critical to the future success of your farm business. It is very important to put together a competent transfer team with an attorney, accountant and others than understand farming, estate planning, elder law and disability planning.

**Caution:** This publication is offered as educational information. It does not offer legal advice. If you have questions on this information, contact an attorney.