Publication 70

Farm Succession Planning Guide

2020

Ministry of Agriculture, Food and Rural Affairs

Ontario

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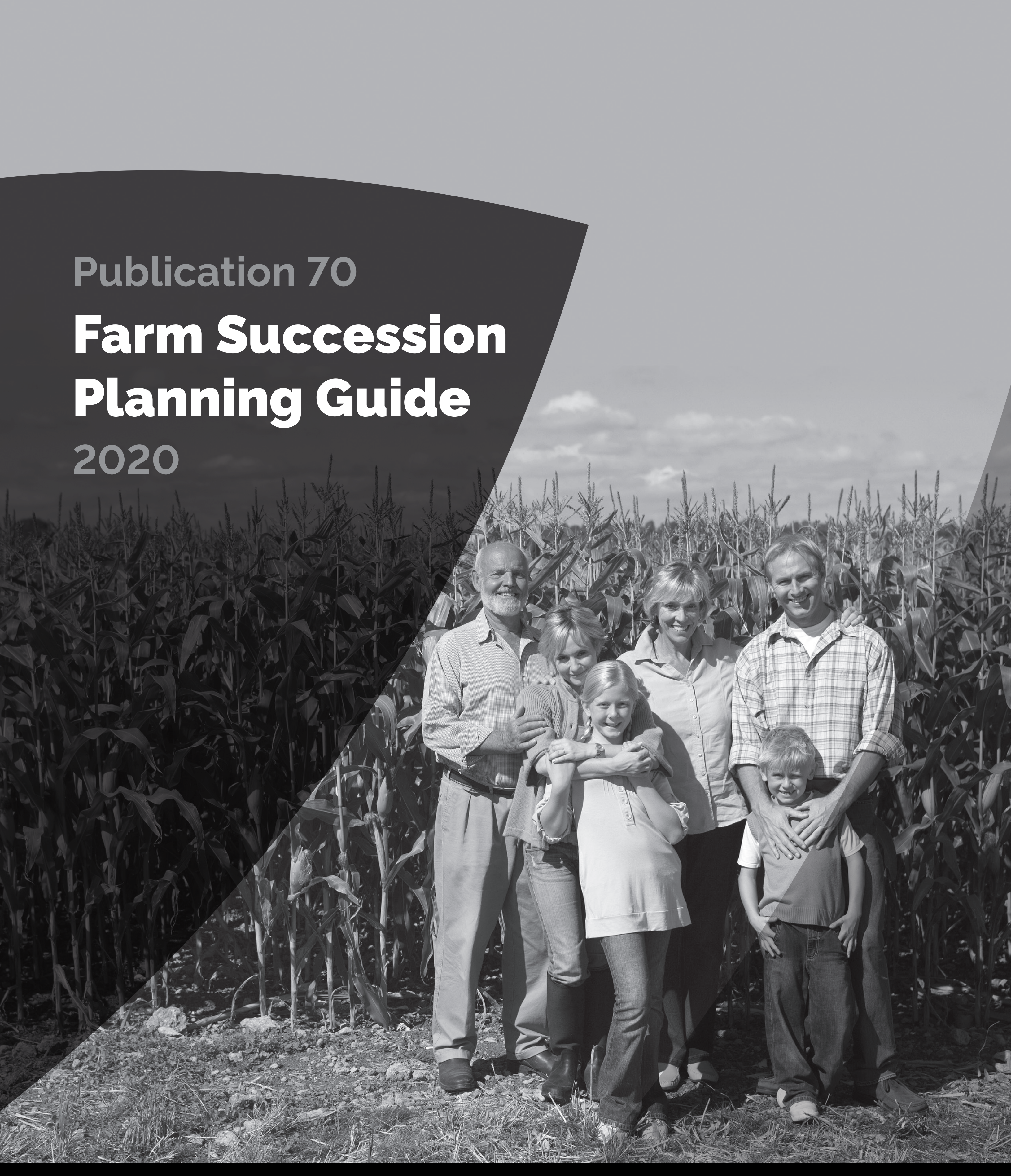

Ministry of Agriculture,
Food and Rural Affairs

Ontario

2019 Updates Compiled by

Mark Ferguson, Business Management Specialist, OMAFRA

Acknowledgements

The first edition of Publication 70, *Farm Estate Planning,* was authored in 1991 by William R. Broadworth and Ralph S. Winslade. It has gone through subsequent revisions and updates. The 2008 version was renamed *Farm Succession Planning Guide* to reflect the current thinking on this subject.

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Published by the Ministry of Agriculture, Food and Rural Affairs

ISBN 978-1-4868-4005-2 (Print)
ISBN 978-1-4868-4006-9 (PDF)

03-20-0.5M

Cette publication est aussi disponible en francais.

Disclaimer

This publication is intended as general information and not as specific advice concerning individual situations. Although it outlines some of the legal and tax considerations of farm succession planning, it should not be considered as either an interpretation or complete coverage of the Income Tax Act or the various laws affecting farm succession planning. The Government of Ontario assumes no responsibility towards persons using it as such.

Contents

Introduction

Welcome

Welcome to Publication 70, *Farm Succession Planning Guide*. This publication provides farmers, farm families and farm business advisors with a practical guide to the succession planning process. It offers a variety of considerations and outlines how everything fits together.

This publication is designed around the common steps involved in the succession planning process. These steps are further described in the next section. It follows a logical path from opening up the discussion about succession through to implementation and monitoring progress. In the appendices at the end of this publication are a series of additional tools and resources to help you work through the process.

This section sets the stage for the rest of the publication. It gives some definitions and an overview of the basic pieces to be considered in a succession plan. It also provides an outline of the components of a succession plan along with some perspective on a farming life.

What is meant by "succession"?

Definitions of "farm succession planning" vary greatly. They often include:

- the planned creation, accumulation, preservation and transfer of wealth to achieve certain personal, family and business objectives
- the development, protection and transfer of farm business and personal assets
- the process of providing for the orderly transfer of farm business assets at death to chosen beneficiaries at a selected time

One of the better descriptions is,

A continuous process involving the advanced planning for, and implementation of strategies to, transfer the labour, knowledge, skills, management control, decision-making and ownership of the farm business to the next generation (within family or not) based upon the personal, family and business goals and objectives.

Succession planning is often referred to as "transition planning" in many literature sources and by many professionals and service providers.

Basically, farm succession planning is focused on transferring three components of the farm business — labour, management and ownership. This is illustrated in Figure 1.

While farm succession should be recognized as a process of planning and implementation for the transfer of labour, management and ownership, there will be certain events (marriage, birth, death, divorce, etc.) that will impact upon the plan and its implementation. Therefore, as the process proceeds, there will be continuous refinements and adjustments — the key is to have a plan but be somewhat flexible.

This publication was formerly entitled *Farm Estate Planning*. For the purposes of this book, "estate planning" will be viewed as planning to deal with the settling of an individual's estate, while "succession planning" will be viewed as planning for the transfer of the various aspects of the farm business during the owner's lifetime. Most of the focus of this publication will be on "succession planning."

Figure 1. Basic transfer pieces of a farm succession plan

OWNERSHIP TRANSFER	MANAGEMENT TRANSFER	LABOUR TRANSFER
The transfer of farming assets	The transfer of responsibility and decision-making	The sharing or transfer of physical work

It should be emphasized that succession planning is a process, not an event, and as such it takes time and effort. It is also about change — change in the business, change in relationships, change in lifestyles, change in attitude and so on. It should be understood that succession planning deals with the transfer of three fundamental parts — ownership, management responsibility and decision-making, and labour.

Each family farm business is unique, involving an interaction of people in the strongest of bonds — a family relationship making decisions affecting the farm business, over time.

An important challenge for a farm family is to start the planning process (the sooner, the better) for the transfer of a farm business to the next generation (whether that will be within the family or to someone else).

Research by Dr. Andrew Errington[1] indicates that many farmers do not plan to retire, and other research shows a majority of farmers do not have a succession plan.[2,3] Nevertheless, planning is very important and can go a long way in ensuring an orderly transition.

The process vs. the product

There is a tendency, in some people's minds, to confuse the succession planning process and the actual succession plan.

The succession planning process, which is outlined in the next section, requires:

- exploring and understanding the goals and expectations of family members
- investigating and analyzing the farm business's viability and profitability
- balancing the needs of family members against the realities of business and property transfer
- considering the legal, financial, retirement and tax implications of property transfer

The succession plan is the actual written product of the planning process. It documents the decisions arising from the process and describes how best to achieve what family members want to have happen to the farm business. It must be internally consistent and address goals and plans for the family members and for the business.

Here is an outline of the written components of a succession plan:

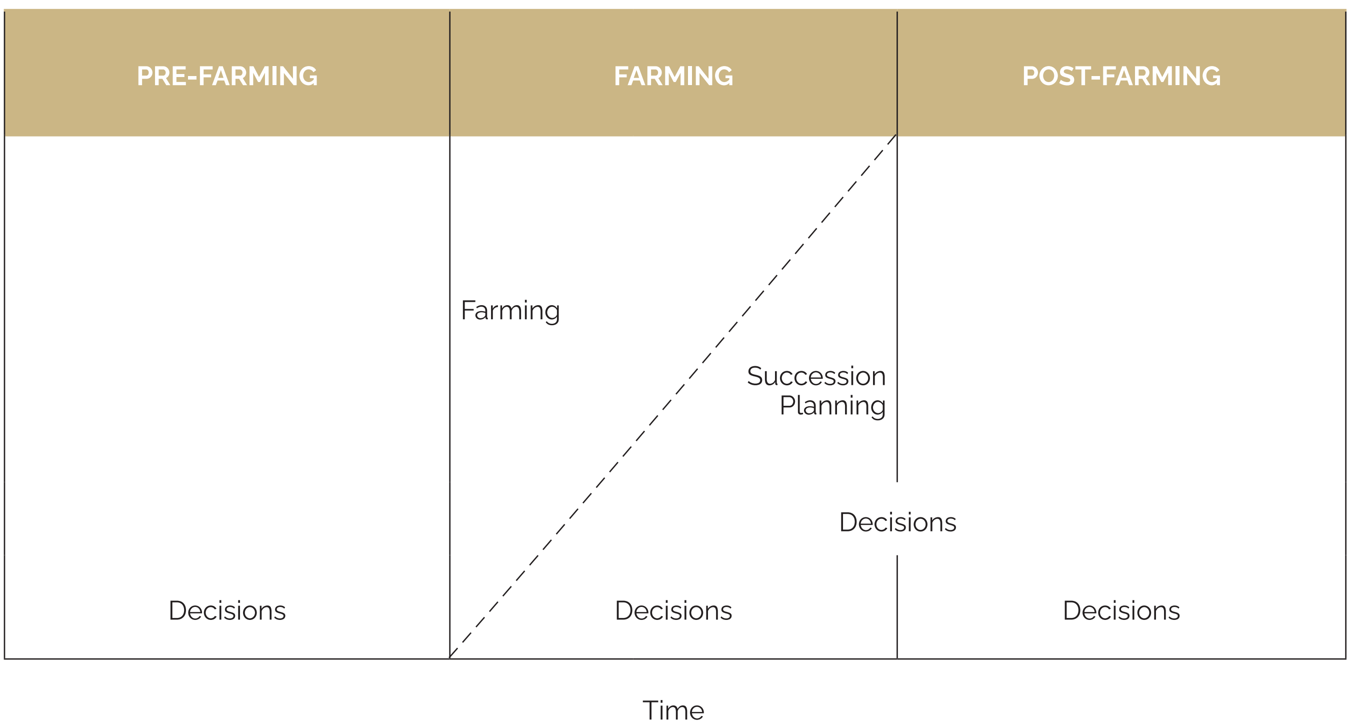
- an overview of the business
- a description of the personal and business goals, and expectations of family members
- a retirement plan
- a training and development plan for the successor(s)
- a farm business plan (a description of the future direction of the business)
- an operating plan (a description of the family members' roles and responsibilities)
- a plan for the transfer of management, control and labour
- a plan for the transfer of ownership
- a communication plan
- a contingency plan
- an implementation timetable

These components are discussed in detail in *Step 4. Design, develop and review,* on page 75.

Putting the process and the plan (the written product) into perspective, Figure 2 illustrates that a farmer who lives a normal life span will generally experience a three-stage life — pre-farming, farming and post-farming (commonly known as retirement). Decisions made during the farming stage impact upon the creation, preservation and transfer of the business. The most challenging decisions often relate to key succession planning issues. These include but are not limited to:

- Who has or should have management power and control of farm business resources?
- What must be done to assure appropriate returns on farm business resources?
- What must be done to protect the farm business resources?
- How can a transfer of management and ownership be successfully accomplished?

Figure 2. A farming life in perspective



About this publication

This publication contains information about the importance of good interpersonal relationships, farm business organizations, operating agreements, ownership transfer methods, taxation implications, retirement, wills and other legalities affecting farmers. These can be categorized into (1) business considerations, and (2) personal and family dynamics issues. No matter how these are categorized, this publication will provide farm families with a framework for the succession planning process.

However, a word of caution — this material is meant only to provide an overview of the issues and steps in succession planning. Succession planning is a very complex field requiring specialized expertise in diverse fields including law, accounting, financial planning and, in some situations, family counselling. That being said, utilizing an "integrated team" of advisors is a good approach. This team can work with the farm family to ensure an optimal plan is developed, that key elements are addressed and that everything fits together in a cohesive and coordinated plan.

Therefore, for specific issues and detailed information, farm families should seek the assistance of professionals in the fields they require help in (i.e., an accountant for tax advice, a lawyer for legal assistance, etc.).

An overview of the process: The steps

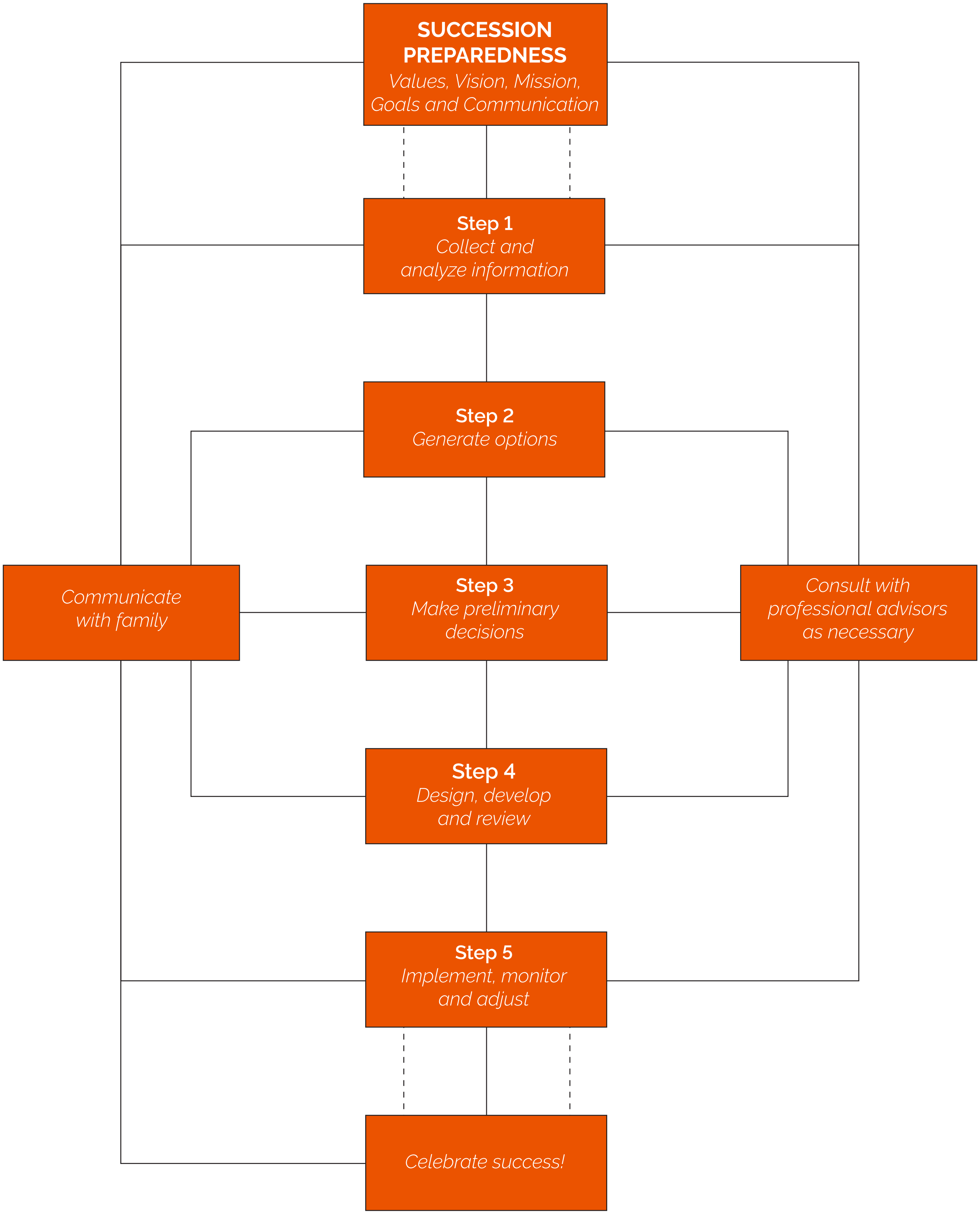
This section outlines the steps in the process and starts to answer the question, "Where do we start?" This is a common question raised by farm families beginning the farm succession planning process. The process can be organized into a series of major steps, which, for the purpose of this publication, include:

- *Succession Preparedness:* Values, vision, mission, goals and communication
- *Step 1.* Collect and analyze information
- *Step 2.* Generate options
- *Step 3.* Make preliminary decisions
- *Step 4.* Design, develop and review
- *Step 5.* Implement and monitor and adjust

It is important to understand that these steps are not necessarily performed in a sequence or in a set order. Some steps should be done one after another, but others can be done at the same time, and still others can be completed in a random order. Figure 3 illustrates what the process looks like.

This step-by-step overview provides a clear layout of the succession planning process, so it can be easily followed. As mentioned, this publication follows this approach and explains the various parts within each step. Next, each step will be discussed, including its key features and considerations.

Figure 3. Steps of the succession planning process



Succession preparedness — Values, vision, mission, goals and communication

This section looks at the personal and family dynamics of farm succession, focusing on how ready or prepared the farm family and farm owners are to enter into the succession discussion. It is valuable to have a basic understanding of how items such as communication, values, vision and goals influence the succession process. This section gives insight into such items and provides a framework to work through this area.

At the beginning of the succession planning process (it could be argued that even before the process begins), there are some pre-conditions or preparedness factors, that should be checked and, if necessary, addressed to ensure everything is in place to move forward. These are complex questions rather than simple yes or no issues. The family should evaluate the extent to which each of these issues are addressed and/or are likely to pose a threat to the successful completion of the planning process and implementation of the plan. These generally include:

- Effective communication, including negotiation and conflict resolution
    - Open the lines of communication within the family (values, vision, mission and goals can then be openly discussed).
- Understanding family business dynamics
    - Determine the most important things (*values* and their *priority*) as the starting point for the development of the farm succession plan.
    - Develop a vision statement (based upon values and their priorities).
    - Develop a mission statement.
- Establishment of clear personal and business goals
    - Set goals (clearly defined personal, family and business goals within the context of their priorities and values).
    - Review each person's goals for compatibility, develop a strategy to address any incompatibilities and work towards the alignment of personal goals with the family and business goals for clarity regarding common interests in the future (especially important if there will be a long-term working relationship between generations).
    - Identify the successor.

Let's discuss each element of succession preparedness.

Effective communication, including negotiation and conflict resolution

Open the lines of communication within the family

Before going much further in the process, it is necessary to ensure the lines of communication are open.

- *Are there open lines of communication within the family?*
- *Are there roadblocks to communication that will interfere with frank discussion of individuals' goals and objectives, plans, hopes and dreams?*

Open communication is needed so that values can be shared and the vision and mission statements and goals can be discussed — part of this is also the ability to negotiate and handle some conflict resolution. When open communication is not possible, the ability to move forward with the process is jeopardized. However, once the generations are talking, everyone will start to think about his or her involvement in the future of the farm business.

In a farming business, communications are made complex by the fact that often family members are employees, employees are owners, owners are family members and so on. It is helpful to understand:

- how the family and business differ
- how they strongly affect each other, and
- how to keep the boundaries clear between them.

Understanding family business dynamics

Much of the preparedness discussion is focused on personal, family and family business relationships — the "soft stuff." In reality, this is the tough stuff. The development and implementation of some farm succession plans run into problems due to family relationship issues. Therefore, a brief overview of family business dynamics may help to improve the chances of success.

A model originally developed by Taguiri and Davis (1982)[4] can help explain the relationship between family and business — and it applies equally well to farm businesses. Taguiri and Davis explained that the issues and challenges faced by families in business together can be categorized into three areas: (1) ownership, (2) management and (3) family/personal.

Taguiri and Davis illustrated this relationship as three overlapping circles. Each circle, which represents a type of issue, has its own dimensions and characteristics. Different principles and techniques must be used to address and resolve each type of issue, depending upon which circle it falls in.

To complicate matters, an issue might arise that could relate to ownership, management or family/personal. It is then important to figure out which area the issue falls into and the appropriate principle and technique to use to resolve it.

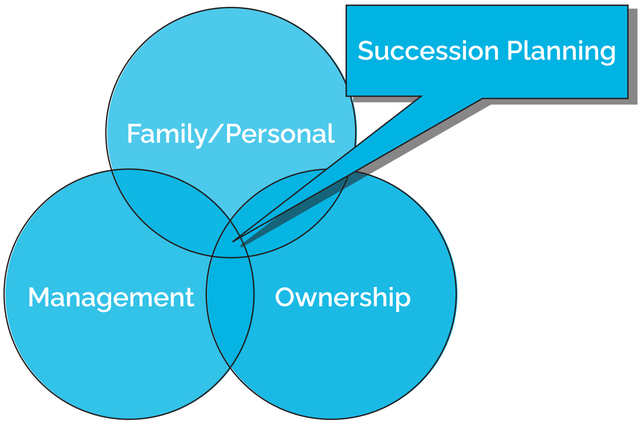
For example, the principles used to resolve an "ownership issue" relate to the fair and equitable treatment of family members. In a family business situation, the parents will provide some leadership on this issue.

On the other hand, the principles utilized to resolve a "management issue" relate to competition and the marketplace. Farm family business owners are familiar and comfortable with these maters — they understand how to be competitive and how to efficiently produce. If they do not, the marketplace will decide for them — they will be out of business.

Finally, the principles used to resolve "family/personal issues" relate to "emotional capital" and everyone having a say from a personal or family position. Family/personal issues are often the most difficult to deal with, which is why they are so important in the entire mix of succession planning. This is why good, open communication plays such a key role.

Robinson et al. (1999) adapted this model to help explain the challenges of succession planning (see Figure 4).

Figure 4. Family farm issues and succession planning[5,6]



Source: Taguiri and Davis (1982); **adapted for succession planning by Robinson et al. (1999).**

The triangular-shaped area (in the middle of the figure) is what makes succession planning a challenge — the three types of issues become intertwined. Conflicts arise because issues get blurred; it is unclear whether an issue at hand is a family, management or ownership issue.

No matter what, open, honest and clear communication is critical to help move the process forward. If family members can communicate about their concerns, issues, goals and aspirations, everything should progress a bit more easily.

Values, vision, mission and goals

An awareness of family dynamics and communication helps, but it is also important for family members to articulate and understand each others' values leading through to their goals. Values, vision, mission and goals flow one from the other:[7]

Values: What is important to me? What do I hold dear?

↓

Vision: What does the future look like? (This is impacted by the values.)

↓

Mission: Why are we here? What do we believe in? (This is affected by the values and the vision.)

↓

Goals: What do we want to do? What do we want to be? (This is influenced by the values, vision and mission.)

While understanding values and priorities, developing vision and mission statements, and setting goals all seem abstract, they do provide concrete results because they help farm families to focus on the important things. They provide the answer to the question, "Why are we in business?" If a family does not have a clear view of the why, there may be more fundamental issues that need to be resolved before continuing with succession planning.

Succession planning revolves around open and honest communication and relationships. Good communication is hard to achieve but is fundamentally important to the success of a plan. Success requires not just any communication but good quality communication. This involves not just talking and listening, but understanding what is being said and what is not being said.

Determine the most important things

Values and their priority are the starting point for the development of the farm succession plan. Values are the foundation of our character and answer the question, "What is important to me?" Farm families should identify and clarify their values early in the process as values are a building block for the succession plan.

Within the framework of succession planning, deeply held values "influence the vision and mission statement and the goals, not to mention various decisions along the way."[8]

A few "value" questions[9] to consider:

- How do you define business success?
- How do you define personal success?
- What is important in your business? How would you rank these?
- What is most important to you, relative to your business?
- What is least important?
- What factors are considered when making decisions?[10.]

Answering these questions truthfully will improve your understanding of the family's values as they pertain to the farm business and the priority placed on these values, setting the stage for developing your vision and mission statements and setting your goals. This is the baseline from which to start the succession planning process.

Develop a vision statement

An understanding of values and their priority leads to the next piece of the puzzle — writing a vision statement. A vision statement paints the picture of what you want the farm to be in the future. It describes the desired situation of the business at some future point.

On the other hand, a mission statement (which will be discussed next) declares what the farm business is doing now to make that vision come true. Put together, these two statements provide a powerful compass that can guide the farm business into the future. This is the practical reason to go through the vision and mission statement development process. A visioning exercise can help the farm family and farm family business reach their potential.

The three main elements of a vision statement are: core beliefs, an envisioned future and recognition of stakeholders. The core beliefs statement gives the farm's values and reason for being. The envisioned future statement describes the desired future for the organization. This future vision should stretch resources and capabilities as well as inspire achievement. The final part of the vision statement is the recognition of how the farm business serves its stakeholders, including owners, employees and its customers.

Here is an example of one farm's vision statement:

ABC Farms will be an agribusiness focused on the profitable, progressive and sustainable production of premium-quality, identity-preserved grains, oilseeds and dairy products. ABC Farms will be a respected, responsible neighbour and an asset to our community. We prefer a rural lifestyle and are willing to embrace change as a means to that end. ABC Farms provides the opportunity for our children and employees to participate in production agriculture either as owners and/or managers of the business.

Answering the following questions can help to develop a vision statement:

- What do you want the farm to be in 10 years' time?
- What do you *not* want the farm to be in 10 years' time?
- What do you value about your farm operation?
- What is unique about your farm?
- Who will be your farm's customers in the future and what products or services will they want?

Develop a mission statement

Basically, a mission statement describes what the business does and why it exists. It is short and includes a concise statement of why the business exists and what it is engaged in, states the purpose and identity of the business, defines the essence of the business — its values and philosophy, and describes the direction in which it is headed.

Here is an example mission statement for XYZ farms:

XYZ Farms is a producer of grains, oilseeds, specialty crops and milk. Our mission is to be recognized by our business associates and competitors as one of the top producers in our area and to make sure that productivity translates into prosperity and growth for everyone involved with our farm.

To develop a mission statement, answer the following questions:

- What does our business do and why?
- How will following this mission statement make our vision a reality?

Vision and mission statements should be reasonable, achievable, clear and understandable. They are best brief, but it is even more important that the statements accurately reflect your business as you understand it.

Establishing clear personal and business goals

Set goals

Next, the farm owners and succeeding generation must define their separate goals and expectations for themselves (personally), their family and the business. These goals will be influenced by each individual's values (or what's important to them).

Goal setting is not an exercise to be politely done and then set aside. It is intensely personal. It needs serious consideration and the goals must be consistent with each individual's values, vision and mission for the farm. Unfortunately, people often set goals that are doomed to failure — the goals are unattainable, they don't buy into the goals or they are not specific enough to generate action.

Family members will need to think through what they want, not only from the farm succession process itself, but more generally for their own future. The existence of clear personal and business goals for all participants is a preparedness factor for a good succession planning process. There are two basic types of goals to be considered — strategic and operational. Strategic goals focus on the bigger picture and longer term (i.e., where everything is headed); operational goals relate to day-to-day activities. Setting both types of goals is critical to success.

An effective goal is one consistent with an individual's values that sets out a clear vision of the desired state that will exist when the goal is reached, with a deadline for completion.

Farm families should set goals regarding ownership, management control, level of involvement in the operation (now and in the future), retirement, financial security and distribution of personal and business wealth.

A worksheet to assess the owners' and succeeding generation's situation, goals and objectives can be found in *Appendix I. Assessing the situation and goals,* on page 85.

Review goals for compatibility; develop a strategy to address incompatibilities

Building on the importance of open communications and clear goals, the following questions arise: Have the family members shared and discussed their goals among themselves? Are there any serious conflicts or incompatibilities that will affect a transfer?

Even after the family has addressed the potential problem of undefined personal and business goals and each person involved in the succession plan has a clear vision of his or her preferred future, there can still be obstacles. In particular, it is possible — even likely — that some of the goals of the various members of the family may be incompatible, or perhaps mutually exclusive.

If the family members are unwilling or unable to communicate their goals, these differences or incompatibilities can provide endless challenges and interfere with the succession planning process. If the family members are unwilling to rank their goals in order of importance and negotiate based on interests rather than positions, then it is possible that the succession planning process will stall at some point over an unresolvable difference. The family should agree on a process to address these impasses early in the succession planning process - preferably before there is an actual impasse.

If the current owners and the successors plan to be in a long-term work and business relationship, their goals, both personal and business-related, should be as compatible as possible. If the plan is for an immediate transfer without a long-term working relationship, having compatible goals is less important.

Further discussion regarding compatibility of goals can be found in *Appendix II. Assessing the compatibility of goals,* on page 88.

As can be seen, clarifying goals is a big job that is easy to overlook. Unfortunately, not considering these succession preparedness factors can lead to serious problems later in the process.

Some final points to consider:

- Goal setting can be difficult to do because it requires time, commitment and energy.
- Different life situations often mean different needs, wants and goals.
- It is critical to have a clear understanding of family members' goals.
- If different family members' goals conflict, the resolution must be perceived to be fair.

Identify the successor

When defining their objectives and goals, a major consideration for the next generation is whether any of them wish to be involved in the business. If the answer is yes, they become a potential successor. The process then moves forward within the framework of transitioning to the next generation. If the answer is no, discussions and decisions eventually focus on preserving family wealth and the transition out of farming. When identifying a successor, keep in mind that the potential successor does not necessarily need to be of family relationship — there may be an opportunity for employees, outside interests, etc. to buy in to the business.

Assuming there is a potential successor, does everyone agree that that individual is to be the successor to manage the farm? Is there a plan to develop that individual's skills, knowledge and abilities (also referred to as a successor development plan) to ensure he or she has all of the tools to successfully run the farm business? If so, is the plan being executed?

Relative to the development plan, one of the first transfers that can and probably should take place as part of an overall succession is the phased transfer of management authority to the successor. Sometimes it happens smoothly, and sometimes it doesn't.

In addition:

- The current owner(s) must decide what they want and need for retirement.
- The current owners must consider their comfort and security and be sure not to risk too much when transferring the property to the succeeding generation.
- The current owners should identify the successor early, to allow time for acceptance by the rest of the family, as well as for the training and development of the successor before succession.

The family and farm life cycle

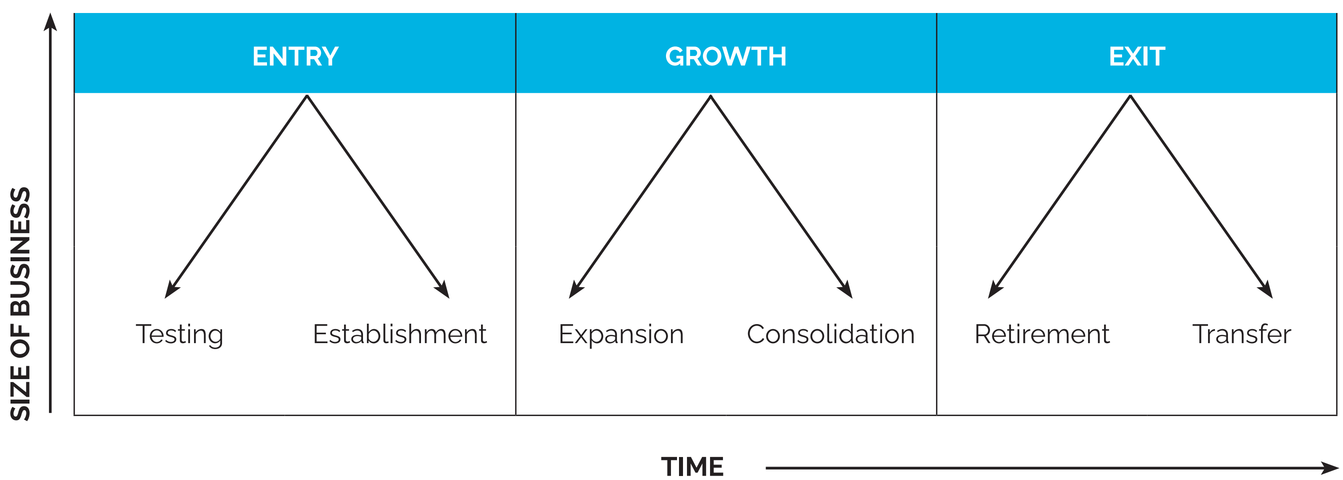
Somewhat outside of the preparedness discussion, but still having a significant impact on it, are issues related to family and farm life cycles. Many farm businesses are owned and managed by a single operator and his or her spouse. The life cycle of the farm business typically parallels that of the operator(s). As shown in Figure 5, there are three main stages through which the farm operator and the business pass: entry, growth and exit.

The entry stage involves two major steps. The first is to consider the opportunities in farming and decide whether to choose farming as a career. The next step is to acquire sufficient capital resources and managerial ability to establish a farm business that will provide adequate income now and in the future.

The growth stage involves the process of expansion and consolidation. Through the use of credit, and possibly leasing arrangements, the resource base is expanded. After a certain period, the operator tends to shift the emphasis from expansion to consolidation of the business and stabilization of income.

During the exit stage, consideration is given to retirement and the transfer of assets to the next generation. At this time, provisions are often made to secure sufficient retirement income,

Figure 5. Operator and farm life cycle



and steps are taken to reduce management and labour responsibilities. This is when succession plans are developed that will implement transfers of the business ownership and managerial responsibility to the next generation.

Each family is different

The process of developing and implementing a farm succession plan can take from two months to 20 years — each and every farm family and farm situation is different. Figure 5 is an over-simplification, since many operations today have multiple generations working together, resulting in overlapping and intertwined family and farm business cycles. This adds another layer of complexity to the planning process.

If the parents are ready to retire at the same time as the children want to start farming, transfer arrangements would be simpler. However, this is seldom the case, thus resulting in the overlap of the farm and family life cycles of the two generations.

Furthermore, while the above cycles exist, every family's situation is different. The following three main factors contribute to these differences:

Resources of parents

The profitability and debt load of the present farm business and the parents' personal savings all have a significant effect on the process of bringing additional people into the farm business. Some farms have sufficient income to accommodate one or more people entering. Others have adequately provided for one family's needs and if parents have off-farm investments and a retirement house already purchased, they can likely afford to sell at a lower price than parents with no savings and considerable debt. As the next generation works into the business, expansion, off-farm income, etc., have to be considered.

Timing of entrance

The ages of the family members have an effect on the type of arrangement that might be considered. If the parents have 20 years of active farming ahead and sufficient income for two or more families, formal arrangements are important. Where the parent(s) is within two or three years of retirement, less formal arrangements may suffice.

Number of children

The size of the family and the number of persons who may wish to farm are significant considerations. The situation is simpler if there is one child rather than six, three of whom want to farm. Unless the business is extremely profitable, it is very difficult to assist several people to become involved in a farming operation that only supported one family.

This section looked at the pre-conditions or preparedness factors related to the personal and family dynamics of farm succession. A basic understanding of such things as communication, values, vision and goals is helpful in planning the succession process.

Step 1. Collect and analyze information; investigate additional succession planning information

As noted previously, much of preparedness relates to communications and personal/family relationships/dynamics — the “soft” issues. Step 1 focuses more on the business elements, such as financial analysis, profitability, tax and legal considerations. This section will look at these items in some detail.

It could be argued that financial analysis and profitability matters should be addressed at the beginning because they are the “show stoppers.” If the business is not generating a profit, why would a family consider transferring it? This is a valid argument. However, if the family does not know what the next generation is thinking and what their goals and aspirations are, then why would consideration be given to succession planning in the first place? It is a Catch-22 situation. In the end, because the step-wise approach is a dynamic model, the order does not really matter - this publication presents the communication and family dynamics step first and then the profitability discussion.

During Step 1, the farm family must become familiar with succession planning, collect business documentation, analyze the financial viability and profitability of the farm business, collect and review additional succession planning information.

Become familiar with succession planning

Family members should become familiar with the basics of the succession planning process and become aware of some of the tools. This might include reading articles about succession planning and/or attending succession planning workshops or seminars.

Collect business documentation

To get a complete and comprehensive picture of the farm business both for the farm family/owner and any farm advisors, another key part of Step 1 is to collect, compile and review all the relevant business information and pertinent documents, identifying any missing pieces of information. Pulling this information together is a prerequisite to completing an analysis of the farm business’s financial situation to determine viability and profitability.

A partial list of the documents includes:

- legal wills
- Power(s) of Attorney
- property deeds and original farm purchase agreement (if available)
- any equipment, farm, building, land lease or rental agreements (if applicable) and related documentation
- mortgages and loan information, including credit card information
- insurance (including comprehensive, liability, life and disability) policies
- partnership or shareholder agreement (if applicable)
- any other farm agreements and applicable contracts
- incorporation documentation (if applicable)
- financial statements and other finance-related records
- inventory list and fair market value (FMV) valuation/appraisal
- tax returns and records
- employee records and agreements
- production and performance records
- environmental farm plans (or assessments)
- nutrient management plans/strategies

- bank account information and signing authorities
- stock brokerage firm records
- safety deposit box information
- savings and off-farm investment information
- retirement planning and retirement savings (RRSPs, RRIFs, certificates, savings bonds, annuities)
- current contact information for suppliers (feed, seed, etc.) and service providers (accountant, lawyer, financial institution representative, etc.)
- domestic contracts (i.e., cohabitation, marriage, separation, support orders, etc.)
- funeral arrangements
- property tax notice(s)
- binders, notes and manuals from previous courses and seminars attended

Appendix III. Record of key information and contacts, on page 89, provides an outline for recording key information and contacts.

Collect financial information

Appendix IV. Worksheets for collecting information on farm assets and liabilities, on page 99, provides an outline to help collect key financial information.

Analyze the financial viability and profitability of the farm business

Once this business documentation is collected, the financial records and statements can be used to analyze the farm business's past and current financial situation. The farm's financial performance can then be compared to industry benchmarks to determine the farm's relative current financial situation.

Projected cash flow and income statements can also be developed to investigate the future financial viability of the business and to look at various options. The business has to be profitable to be viable in the long-term. If it does not currently generate enough income, what changes can be made to ensure it does in the near future?

The question then becomes:

- Does the business currently generate enough income (i.e., profit) to:
  - support another household?
  - provide for a financially secure retirement for the current owner(s)?
  - ensure a financially sound business for the successor(s)?

Family living costs are a serious consideration at this time. Determine whether there will be any drastic changes in family living requirements over the term (i.e., a family member active in the business getting married, having children, building a house, etc.).

The federal and provincial governments, from time to time, offer programs to help offset some of the cost of hiring an advisor who can complete a financial analysis of the farm business. This can provide farm families with additional material to make informed decisions. Check with the local Agriculture and Agri-Food office or with the Ontario Ministry of Agriculture, Food and Rural Affairs' (OMAFRA) Agricultural Information Contact Centre at 1-877-424-1300 or www.ontario.ca/agbusiness.

Profitability and succession planning

The issue of profitability must always be considered and addressed early in the succession planning process. If the farm business is not profitable enough to support another generation in the business or to finance the current owner's retirement, then the succession plan should either be seriously reconsidered, needs to be reworked, or the business must determine how to generate more profit.

Four-step analysis

Following this four-step analysis process can be useful in determining the financial situation and viability of a farm operation:

1. Evaluate profitability based on cash flow
2. Determine debt-servicing capacity
3. Assess equity
4. Collect and review specific technical information and key considerations

1. Evaluate profitability based upon cash flow

As a starting point, most business owners are more concerned about cash flow than profitability. A business must be profitable if a long-term consistent cash flow is to be made. A business that is unprofitable will, without outside income, eventually experience a cash flow shortage. It then makes sense to approach and evaluate profitability based upon cash flow.

The first question is, "Is there enough cash flow?" Or, in other words, "Has the business ever experienced cash flow problems in the past?" If it has never had cash flow problems before, the financial projections can be undertaken.

However, if the business has experienced cash flow problems in the past, it is critical to identify the causes before adding a new family member to the business or expanding.

2. Determine debt-servicing capacity

Completing a projected debt-servicing capacity worksheet is a quick and simple way to determine if the business is profitable enough to transfer. This worksheet basically tells if the business is able to support additional financing for a transfer or additional salaries. If a shortfall is identified, the family knows how much profit the business must generate.

Debt-servicing capacity is usually calculated on a cash basis, because immediate requirements for debt repayment cannot be made with the inventory sitting in a bin. Debt is paid from the cash flowing into the business. This would include both farm sources of cash income, along with off-farm and personal income. Personal living expenses, income tax and a reserve for purchasing assets are also considered.

A debt-servicing capacity worksheet can help summarize several key pieces of financial information. As mentioned above, the information needed includes:

- farm cash revenue and expenses
- off-farm income or other owner's contributions
- owner's withdrawals — the amount required from the business to cover personal living expenses and taxes
- reserve for asset acquisition — a depreciation figure or an estimate of the funds needed in the coming year to make capital purchases

The actual debt-servicing capacity worksheet is as follows:

DEBT-SERVICING CAPACITY WORKSHEET	
Projected year	
+ farm cash revenue	$380,000
– farm cash expenses	$328,000
= net cash from operation	$52,000
+ interest payments	$18,000
+ owner's contributions	$8,000
– owner's withdrawals (including taxes)	$42,000
= cash available for principal and interest payments	$36,000
– principal and interest payments	$31,000
= cash available after principal and interest payments	$5,000
– depreciation or reserve for asset acquisition	$20,000
debt-servicing capacity	**($15,000)**

This example shows that there is cash available to cover the interest and principal payments, but not enough to cover depreciation. Depreciation or a reserve for asset acquisition is used to replace assets as they wear out. In this example, a shortage of $15,000 exists. The debt-servicing capacity indicates how much a farm business can afford. This should be known before approaching a lender.

This calculation can also be helpful as a communication tool with non-farming family members. It helps to explain to non-farming members that the business may not be able to support as high a transfer value as they might think.

3. Assess equity

Knowing and understanding the equity situation can help with determining the business's ability to survive any cash shortages. A lasting cash shortfall reduces owner's equity. Therefore, a high-equity business can withstand larger and more serious cash flow shortfalls. Conversely, low-equity businesses are less able to tolerate cash flow shortages and thus are at greater risk.

Basically, percent equity helps farm owners/families answer some key questions, including:

- How much risk is involved?
- Can the business be expanded?
- How generous can the parent(s) be with the next generation (in the absence of off-farm investments)?

Equity is calculated by subtracting your total liabilities from your total assets. For example, a farm with $650,000 in total assets and $230,000 in total liabilities will have an owner's equity of $420,000 ($650,000 – $230,000 = $420,000).

The equity of the business is always stated on the balance sheet, but its value can vary widely depending upon how the assets are valued.

Statements can be prepared on a "cost less depreciation" basis to value assets or the "fair market value" of assets. For the purpose of evaluating your business equity, one might use conservative fair market values.

Next, to determine the equity as a percentage, divide your equity by your total assets and multiply by 100.

$$\text{Percent equity} = \frac{\text{equity}}{\text{total assets}} \times 100$$

Continuing with the example above,

$$\text{Percent equity} = \frac{\$420{,}000}{\$650{,}000} \times 100$$

$$= 65\%$$

The question then arises, "What can a producer do if he or she is in a low equity position?" Strategies include:

- Be in the top 25% of production.
- Be in the top 25% of marketers.
- Be in the top one-third of producers in cost control.
- Take no more than 10% of revenue for family living.

No matter what, care and good management will be needed, not just good luck.

4. Analyze profitability

Profitability analysis looks at the cause of the cash flow shortage and how a cash shortage can be avoided. There are three areas to look at for profitability problems:

- production and financial efficiency of the business
- scale — the size of the business
- the debt structure of the business

Production and financial efficiency of the business

Efficiency measures the physical and economic output of the business. There is no single perfect measure of efficiency. However, usually a combination of physical and economic measurements, such as yield per hectare/acre or variable costs per hectare/acre, are used.

Sometimes it is difficult to discuss efficiency, especially in the midst of poor commodity prices. However, discussing efficiency is critical to answering the question, "Is this a short- or a long-term problem?" If the efficiency of the business is low, average or even good, prices will not solve the problem. This is important to realize. Efficiency goes to the very heart of being able to withstand a financial downturn. It must begin here.

Scale — The size of the business

Farms can be too large or too small. In large operations, managerial input can be spread too broadly. The efficiency of the business suffers as a consequence. In small farm businesses, there may be too many workers for the farm to fully employ and support. Small farms may also have higher production costs per unit, because fixed investment costs are spread over relatively low output.

In any farm business, farm labour requirements should be looked at and matched to the number of workers.

Debt structure of the business

Debt structure refers to the factors that determine the size of the principal and interest payments, including the amount of outstanding debt, the interest rate, the length of term and the proportion of short-term to long-term debt. Debt structure influences the business's ability to make a profit through interest costs, through costs to service the farm debt and through the value of the assets available to secure the farm's liabilities.

Some debt structure problems are relatively easy to resolve — for example, lengthen loan terms to improve cash flow. However, most require adjustment of the asset and/or liability structure of the business. For example, some farmers might sell assets and reduce liabilities. Others may simply attempt to eliminate assets that have debt-service requirements in excess of their cash-generating potential.

Financial ratio analysis

An extension of the profitability discussion is financial ratio analysis. Financial ratio analysis is a powerful tool to help measure the financial progress of a farm operation. These ratios or financial measures can be separated into four main categories:

- profitability — how well the business is able to generate a profit
- financial efficiency — how effective the business is at using its assets to generate income
- liquidity — your ability to pay your bills as they come due
- solvency — how much you are relying on debt to finance the business

The liquidity and solvency measures tend to be more static measures (i.e., at a specific point in time) relative to profitability and efficiency, which tend to be more dynamic (i.e., measure change over time).

By category, here are five ratios and how they are calculated.

Profitability:

Operating profit margin ratio =

$$\frac{\text{(net farm income + interest expense)}}{\text{gross farm income}}$$

Return on assets ratio =

$$\frac{\text{(net farm income + interest expense)}}{\text{total assets}}$$

Efficiency:

Asset turnover ratio =

$$\frac{\text{gross farm income}}{\text{total assets}}$$

Liquidity:

Current ratio =

$$\frac{\text{current assets}}{\text{current liabilities}}$$

Solvency:

Debt to equity ratio =

$$\frac{\text{total liabilities}}{\text{equity}}$$

Table 1 illustrates the calculation of the above financial measures and their target.

Table 1. Financial measurement calculations and targets

Ratio	Calculation	Target[3]
Profitability		
Operating profit margin	$\frac{\text{net farm income}^1 + \text{interest expense}}{\text{gross farm income}^4}$	Greater than 0.20
Return on assets	$\frac{\text{net farm income}^1 + \text{interest expense}}{\text{total assets}^2}$	Greater than 0.05
Efficiency		
Asset turnover	$\frac{\text{gross farm income}^4}{\text{total assets}^2}$	Greater than 0.40
Liquidity		
Current ratio	$\frac{\text{current assets}}{\text{current liabilities}}$	Greater than 1.5
Solvency		
Debt to equity	$\frac{\text{total liabilities}}{\text{equity}}$	Less than 0.40

1 *To calculate net farm income, a value for unpaid labour and management has been deducted from gross farm income.*
2 *For the targets, it is assumed that assets are valued at fair market value (FMV).*
3 *These are general targets. Targets may vary depending upon the type of commodity or production.*
4 *Gross farm income can be defined as total farm income from all sources before expenses.*

Profitability

An operating profit margin of greater than 0.20 is the target. However, if a farm business falls below this, consider trying to increase net farm income by improving cost control, or reviewing the marketing plan to increase the price received. Return of assets provides an indication as to how well you are able to utilize your assets. A return on assets greater than 0.05 (or 5%) is preferable. If the return of assets ratio is below 0.05 (5%), then consider either reducing the amount of equipment owned, size of the equipment, or look into doing custom work to help increase the return on the assets.

Efficiency

Asset turnover ratio denotes the portion of income relative to the assets that are held by the farmer. An asset turnover measure of 0.40 means every $1.00 invested in assets is generating 40 cents in gross sales. An asset turnover ratio below 0.40 signals to the farmer that they may not be getting the most efficient use of the asset. Strategies that would help increase return of assets ratio would include expanding production to match equipment or building size, doing some custom work to increase equipment usage or selling non-productive assets.

Liquidity

A current ratio of greater than 1.5 indicates that a farm business has more than $1.50 of current assets for every $1 of current liabilities. Current assets are those short-term assets that can be easily turned into cash. Current liabilities are bills that are going to come due within the next year. So in other words, the current assets could be liquidated to meet current liabilities if needed, and there would still be something leftover.

Solvency

A debt to equity ratio provides a measure of the equity position of the business. It is desirable to have a debt-to-equity ratio of less than 0.40. A debt to equity ratio indicates that for every $1.00 of equity, you have $0.40 of debt. With a ratio less than 0.40, a business should be able to weather short-term financial downturns or meet all financial obligations if it ever had to sell off all its assets.

A word of caution is that these financial ratios are a good indication of how the business is doing but they are not necessarily the final word. A complete review of the entire business along with a historic trend analysis can help provide a better overall picture of the operation.

Collect and review additional succession planning information

12 Key considerations

In addition to the business and financial documents gathered so far, there are other details the family must consider. These are described below and are meant to be used as a guide only. Your team of professional advisors will be able to guide you in deciding what best suits your farm business's unique needs.

A. continuity of the farm business
B. fair treatment of family members
C. retirement planning
D. Financial and investment plan
E. Management and labour transfer plan (successor development plan)
F. Ownership transfer plan
G. Tax considerations
H. Legal considerations
I. Farm business structures and agreements
J. Financing options and purchasing arrangements
K. Insurance and succession planning
L. Preserving the value of the estate

A. Continuity of the farm business

Keeping the family farm in the family is important to many farm families. Essential to such continuity are two things:

- the viability of the farm business — as previously discussed, it is difficult and often impossible to undertake a successful farm succession plan if the farm does not, or cannot, generate sufficient profits to support all the people involved
- preparation by all involved for the transfer of management and ownership — on the part of the current owners, a confidence and willingness to transfer management responsibilities and ownership to the next generation (the "gracious exit" concept), and on the part of the succeeding generation, competence, commitment and motivation. Whether the management and ownership transfer will occur over time (known as "intergenerational farming") or involve the complete transfer of management and ownership from the current owners to the succeeding generation, the current owners have an important role in helping the successors acquire the important and necessary management skills and qualities. They should remember that few people have an engrained ability to accept and automatically handle management and

ownership, so there is a need to develop a successor development plan — a plan or methodology whereby the successors will have the opportunity to develop the management skills and qualities required to take over and successfully operate the farm business.

This is discussed further under the section E. Management and labour transfer planning (successor development plan), on page 33.

B. Fair treatment of family members

When it comes to succession planning, farming parents often find fair treatment of family members difficult. Mathematical equality is often unfair for the child who has shown the motivation, acquired the competence and demonstrated the commitment to farming. But leaving nearly all the wealth to one child is unfair to other children. So, just how should parents deal with this aspect of succession planning?

Non-farming children can receive consideration from savings, off-farm investments or life insurance proceeds, with the farming assets going to the farming children. When parents do not have sufficient non-farm assets to do this, farm assets can be bequeathed (passed through the will) to a child who is farming, with the farming child required to pay a fixed amount of money to the remaining siblings.

There is no easy solution to this equitable treatment challenge. However, there are some principles to keep in mind:

- Parents should take the lead through good communication with family members in discussing this aspect of succession planning.
- The ultimate in equitable treatment will be what is perceived and accepted by all concerned as equitable.

C. Retirement planning

Farmers, like anyone else, should take responsibility for a successful retirement. Part of retirement planning is about the financial piece, but just as important is the lifestyle consideration — what will one do in retirement to make it meaningful (community service, church, family time, travel, etc.)? There is a direct relationship between retirement satisfaction and the degree of planning for retirement. Conventional wisdom suggests retirement planning should commence when people are in their 40s and 50s. However, many individuals start contributing to RRSPs and other retirement savings vehicles much earlier, realizing the power of compounding interest over years, even at relatively low interest rates.

Everyone has a lifestyle. In preparation for retirement, people should think about the kind of lifestyle desired. Will it involve more travel, continued work activities on the farm or elsewhere, more time for hobbies and other interests and some community service? Many do not give adequate consideration to retirement lifestyle and are shocked when they do start to slow down.

Generally, retired people will have much more leisure time. Meaningful use of leisure time will provide pleasure and personal satisfaction. Leisure time can be used to pursue interests, apply skills or do anything to fulfill lifestyle desires.

Of course, good health is important. There are two essential components: good mental health and sufficient physical exercise. Maintaining mental health can be challenging in agriculture with its unique challenges. Farming can be a tough business that can sometimes take a toll on farmers and their families. Stress mitigation resources available in Ontario include a province-wide mental health helpline (1-866-531-2600), a crisis line (211) and distress centres. Farming provides opportunities for physical exercise. The same kind of opportunities may not exist in retirement. Therefore, it is wise to get active in other exercise activities. Proper diet is also important.

Financial security in retirement is necessary. Income will have a significant impact on lifestyle. In the past, financial planners have said that most Canadians will require 70% of their annual pre-retirement income to maintain their desired lifestyle in retirement. However, some are now stating that individuals will require 100%. This is open for debate but either way, what's needed is still a significant level of income. The Canada Pension Plan and Old Age Security may provide only 40% of this requirement for the average Canadian. One-third of the Canadian population does not save for retirement. Would these facts apply to farmers? Sources of income for retiring farmers can include capital accumulated in the farm business during the farming career, savings and investments, RRSPs, Old Age Security and Canada Pension Plan.

Accumulated capital and retirement

Most farmers have reinvested farm profits back into their farm business and therefore much of their capital is tied up in that business. The farm business assets become a major source of retirement income and as such, retirement planning starts when a farmer begins his farming career.

Farmers have two opportunities when approaching retirement:

- Transfer — If a family member wants to take over, the farm may be sufficiently profitable to provide income to the retiring parents from annual operations. If the accumulated capital does not have to be divided amongst too many family members, both the transfer and retirement can function smoothly. Conversely, it is difficult for a producer to fully retire from the business if the retirement fund is tied up in the farm.
- Exit — The farm business, wholly or in part, can be converted to cash (sold), taxes paid and the residue invested to provide income.

Some farmers, aware of sound farm financial management and investment strategies, may be able to invest some profits outside the farm. Such investments can grow and provide much of the necessary retirement income. It then becomes a little easier to transfer the farm to the next generation.

Unfortunately, farming is not always profitable, and some farmers have large debt loads. They may never achieve a large self-supporting farm business or a satisfactory level of off-farm investment. Such farm operations will experience a retirement viability squeeze that could result in a family member not being able to take over the farm. The farm is then sold and, with luck, there will be sufficient funds to support retirement and provide family bequests.

Retirement tax planning

No matter what stage in life, everyone has to deal with taxes. To ensure that there are no current or future tax consequences, people should complete tax planning. There are different ways in which farm families can complete tax planning for their operations. If both spouses are active in the farm operation, they may split income. If one spouse owns the farm as a proprietorship or a corporation, the other spouse can be employed and receive a salary. This method of income splitting allows both spouses to pay less annual tax than if the income were earned by only one spouse. However, in this scenario, if the capital/assets were owned by one spouse, when the farm is sold, this spouse would pay all taxes resulting from the sale. Also, this one spouse would report all income from any investments purchased from sale proceeds.

On the other hand, if both spouses are actively involved in the farm business, it may be better from a taxation viewpoint to have a partnership or a corporation owned by both spouses. The major advantage of such an operation becomes apparent at retirement time because the tax load can be split when the farm business is sold.

Again, each spouse can invest his or her own capital resulting from a farm sale. This provides two retirement incomes, again helping with tax planning.

Seek professional tax advice early in the planning process and discuss the various scenarios thoroughly with your professional advisors before any major decisions are made.

Saving for retirement

A number of retirement investment alternatives are available for farmers.

Canada Pension Plan contributions should be a prime consideration. Some people may be interested in a reduced Canada Pension starting at age 60. The level of CPP collection is dependent on the amount paid in over one's working life whether by themselves or by an employer. If the maximum annual contribution to CPP has not been made, then the resulting pension payment will be reduced. Consult a financial planner to determine your specific situation.

Give serious consideration to investments in Registered Retirement Savings Plans (RRSPs). Contributions to RRSPs are deductible from taxable income. They are not untaxed but are, rather, tax deferred. Tax will be paid on the withdrawals from the RRSP in the future, typically, after retirement, when the contributor's income is lower. The contributor benefits by receiving a tax deduction in the year of contribution, by earning tax-exempt interest on the investments within the plan and by paying tax at the rate of the (usually lower) income at the time of withdrawal.

Annual investment limits in RRSPs increase from time to time, and anyone can own several types, including guaranteed investment certificates, mutual funds, income funds and self-administered plans. By the end of the year in which one turns 71, the RRSPs must be dealt with in one or a combination of ways. They may be either cashed and the whole amount taxed in one year, or used to buy a life annuity or a Registered Retirement Income Fund (RRIF), whereby income is taxed each year as payments are received.

Tax Free Savings Accounts (TFSA) can also be used to help fund your retirement. Starting in 2009, the Government of Canada introduced the TFSA. Unlike a RRSP you do not get a tax deduction when you invest money in a TFSA, but you will not have to pay any tax when you withdraw the funds. Contribution limits do exist for TFSA and do change periodically. If you are interested in opening a TFSA, please speak to your financial advisor and they will be to confirm what your contribution limit is.

Off-farm investments can also involve non-registered investments. The nature of the investment will depend upon the risk one is willing to take, the time available to manage it and the tax treatment desired. Most people try to have a basic level of savings with Canada Savings Bonds and Guaranteed Investment Certificates. The interest on these types of investments is fully taxable.

Many investors attempt to earn dividend income and capital gains. They can buy shares in a corporation or they may buy mutual funds which in turn own shares in a corporation.

Some farmers choose to invest in real property (beyond farmland to such things as real estate, houses and apartment buildings in nearby towns). This, in turn, brings forward its own challenges and rewards. However, no matter what, as in any other business activity, diversification is usually wise. While the farm family/owner must make their own investment decisions on and off the farm, advice should be obtained from financial institutions, stock brokers, investment advisors and accountants.

Planning for inflation

Inflation can be both a blessing and a curse. It can be a curse if all your investments are fixed in value, earning only modest interest. It can be a curse if your living costs soar more rapidly than your income. However, it will also tend to help investments, such as shares and land, increase in value.

If inflation continued at a steady rate of 4%, the cost of living could double in 20 years. Thus if one needed $24,000 in income today, the requirement could double to about $48,000 in 20 years. How can you plan for this?

If a person were 60 today, he or she might start drawing Canada Pension benefits and continue to enjoy farm income. At age 65, if he or she retired, Old Age Security benefits and earnings from the capital of the business could combine to boost income to meet inflation. At age 71, something must be done with the RRSPs. Again, the income from an annuity or RRIF will boost income.

With some luck — and good planning, of course — these several income sources will be more than adequate to offset the added costs of inflation. If these are insufficient, however, you may have to start tapping into capital at about age 80. While this may not be your first choice, it should still aid in a comfortable retirement.

Retirement, when approached as only the end of a farming career but the beginning of a new adventure in life, can be exciting and rewarding. The magnitude of this excitement is determined by the effort put into the mental and financial planning for retirement.

Useful retirement checklists and worksheets can be found in *Appendix V. Retirement preparation checklists and retirement income/expense worksheets,* on page 108.

D. Financial and investment plan[11]

Savings, investments and financial planning are important considerations for both the current owner(s) and the successor(s). While each generation has slightly different perspectives on financial planning, the desired end result is similar — a financially viable transition.

Having a variety of savings and investments outside of the farm business (a diversified investment portfolio) and not having (as the saying goes), “all your eggs in one basket,” can provide some flexibility in succession planning and implementation both from the purchasers’ and sellers’ standpoints.

These strategies can also help give off-farm children part of the overall estate while enabling the farming child(ren) to keep a viable operation intact.

As noted previously, off-farm savings and investments can take innumerable forms, ranging from savings through such things as bank accounts, TFSAs, guaranteed investment certificates, guaranteed investment accounts and other interest-bearing products to other investments such as stock, shares, bonds, Canada Savings Bonds and mutual funds. There are also retirement and education products such as RRSPs, RESPs and annuities.

Of course, there is always the option of investing in other types of businesses outside of the farm, outside of agriculture and even other types of ventures such as real estate and properties (i.e., rental housing or industry facilities, etc.). This is just the tip of the iceberg, with limitless possibilities.

What is financial planning?

What is really meant by the term "financial planning" anyway? Financial planning involves knowing your needs and managing your finances to meet those needs. It goes beyond the farm's business plan to encompass the family's total financial goals and needs.

The process of planning (not dissimilar to the succession planning process) involves:

- gathering relevant financial information
- setting goals to meet financial needs
- examining the current financial situation
- coming up with a plan to meet those needs
- taking action on the plan
- ongoing evaluation

The family's needs may include business growth, buying a home or cottage, saving for children's education, planning for retirement or other desired activities.

Financial planning should give the members of a farm family direction and meaning for how they invest, spend or save their money. For example, buying a particular investment product may delay paying off the mortgage, but enable a person to retire sooner. Life insurance may be part of a financial plan to create cash for the family.

Both short-term and long-term needs can be met through effective financial planning, assuming business profitability and sufficient cash flow.

E. Management and labour transfer planning (successor development plan)

Farm succession deals with the transfer of three components — labour, management and ownership. In the past, the transfer of ownership has been given a lot of attention as farmers have been most concerned about the proper structuring of the transfer for tax planning purposes. However, while this is a consideration, the transfer of the necessary management skills to operate a modern farm is just as important, if not more, than the transfer of assets alone.

There's also the matter of the transfer of labour. While the current owners' objectives often include "taking things easier" and eventually turning over control of the business, the transfer of physical labour does not necessarily mean the immediate transfer of management control. "Taking things easier" often means the successor generation does much of the hard physical labour, while the current owner(s) continue to do all the planning, decision making and basically have management control. If this happens, the successor generation can become frustrated and want to be acknowledged as more than just the hired help.[12]

To avoid this situation, it is important that the two generations get together and negotiate the transfer of labour and what it means, and the transfer of management and what it means.

The late Dr. Andrew Errington, a leading succession researcher from the University of Plymouth in the United Kingdom, suggested that the transfer of management control — the ability and responsibility for decision-making processes for the business — was the most difficult and most important component to transfer to the next generation. He felt more emphasis was needed on a "successor development plan" to ensure that the next generation has the skills and knowledge to take over and successfully operate the farm business, not just as labour, but to actually run the farm as a business.

It is then critical that the successor(s) have the opportunity to develop these necessary management skills. Management skills aren't inherited, so one approach is to groom successors through a step-by-step process understood by all who are involved — sometimes referred to as a "successor development plan." Not only must the successors be given the opportunity to learn production techniques, they also must be given opportunities to manage labour, solve personnel problems, make production decisions, understand financial information, make purchasing and selling decisions and settle accounts — all the things Dr. Errington mentioned.

Business advisors and many farmers recommend that successors get training and experience away from the family business. This tends to happen less frequently in farm businesses than in other businesses, but getting specialized education can be of great benefit. The successor can learn new things and brings these ideas, knowledge and skills back to the farm.

Equally important is on-the-job training. The next generation should be given specific jobs to do, with specific responsibilities attached to them. In the course of their training, they should work in various areas of the business to gain a broad understanding of the overall business.

A successor development plan should be developed to act as a road map of what needs to be learned and how the knowledge and skills will be gained. Having this systematic training program will ensure that the successor(s) learn what is needed. Too often, it is assumed that the next generation will learn everything they need to know by simply working in the business. It's much better to have successor(s) work with a mentor, preferably not a parent, who will be in a position to offer supportive criticism and give advice and encouragement. In some cases, a parent may be the only one available to act as a mentor. As the successor(s) works through the development plan, they need a defined job with expected performance standards and a method of objective performance appraisal built in.

There are a number of options that farm families can use to provide learning opportunities for the successor(s).

- Rent additional land for which the successor(s) takes total responsibility.
- Have the successor(s) start a new enterprise.
- Rent a portion of the farm to the successor(s). He or she takes responsibility for all aspects, including financial management. Any profit or loss is the successor's to keep or deal with.

These options provide an opportunity for the successor(s) to try managing while the current owner is still available to offer encouragement and advice, if this is wanted. The successor(s) can make mistakes and learn from them without jeopardizing the entire operation. However, both off-farm education and on-the-farm mentoring add greatly to the education of the successor(s).

The fact that management skills are learned through education and experience over time may be part of the reason farm owner/managers are usually more than willing to transfer the labour, yet hesitant to "turn over the reins" to the successor(s). Turning over the management of the farm businesses is a delicate matter. On one hand, the next generation should be given an increasingly important role in management (i.e., Dr. Errington's suggested reins of control). On the other hand, the current owners have the most to lose should the farm become a casualty of poor management. They may not be willing to step aside until they are confident that the successor(s) are capable of taking over the running of the farm business efficiently and profitably.

However, if the current owner(s) wants the successor(s) to do well, great effort must go into ensuring the next generation has the opportunity to gain competency in the financial management aspects of the business. Otherwise, they will not be able to understand and have the skills to successfully manage a 21st century farm.

Many believe that due to the size, scale and complexity of current farm operations, a small mistake today has a much larger financial impact than at any other time in the modern history of farm business. This adds even more pressure to the next generation to ensure they are capable and competent farm business managers.

F. Ownership transfer planning

Each and every farm will go through a farm transfer someday, voluntarily or involuntarily, to someone within the family or to a stranger. Multi-generational farm businesses, those where there is a potential successor and the hope is to keep the farm within the family, will develop a plan to transfer the farm to another generation when there is some certainty as to who is going to continue to farm. Farm business structures and agreements can be developed to provide the framework for the continuing operation of the family farm business but may also serve to assist in the transfer of farm assets.

There will be some discussion later in this publication regarding the tax considerations of transferring farm assets. The OMAFRA Factsheet, *Taxation on the Transfer of Farm Business Assets to Family Members,* may also be useful reading.

If the farm is sold to a stranger, the OMAFRA Factsheet, *Taxation on the Sale of Farm Business Assets,* may be helpful for understanding the tax considerations and implications of a sale of the farm assets outside of the family.

Determination of what is to be transferred

The current owner(s) may own individual assets such as land, buildings, equipment, livestock and supplies, or an interest in a partnership or shares in a corporation. Before developing plans to give, sell or bequeath part or all of the business, it must be determined which forms of ownership exist. The owner may first transfer his assets to a partnership and later transfer the partnership interest. Similarly, assets can be transferred to a corporation with a subsequent transfer of shares to children. In so doing, the farmer has changed the nature of assets from farm assets to a partnership interest or corporation shares but still owns the business until a transfer occurs.

Methods of transferring ownership

There are basically three methods of transferring farm assets:

- sale
- gift
- bequest (a transfer through the will)

Each method has certain tax and legal implications. Any or a combination of all three methods might be used by a farm family. For transfers to friends, strangers or employees, the techniques are the same, but the tax and legal implications may be different.

Transfer by sale

A sale is a direct way of making the transfer. Within family, farm transfers have some special rules, including rollovers (reduced selling price) for some assets.

Some successors would rather buy the farm at a reasonable price than face the uncertainty of working at home and relying on the will that might never be made. Depending upon the assets involved, the parent(s) could take different forms of security for the sale, which could be effective immediately or at a later date.

Outright sale

When commercial or institutional credit is readily available to a buyer, most vendors prefer a cash sale. The purchaser gains title to the sale item. While less common in family farm transfers, some children prefer the independence of a mortgage to a neutral party, such as a lender, rather than payments to family members. Parents may also require cash immediately to retire, travel or reduce their liabilities.

Sale with mortgage back

Title to property is exchanged and the vendor receives security in the form of a mortgage registered against the title. When the buyer cannot raise funds, the vendor may choose to hold the mortgage with a specified payment plan. A family farm transfer by sale with a mortgage back is common. Both interest rates and principal payments can be very flexible. The mortgage, if properly designed, may be used to spread any non-deferred capital gains over several years.

Agreement for sale

The successor receives possession of the farm, but the parent retains the title until payment is completed. In retaining title, the parent(s) have stronger security and can be more forceful in demanding payments. Most non-related buyers avoid an agreement for sale but in cases where there is a low down payment, a vendor selling to a stranger may demand this method of purchase.

If either of these two options (mortgage back or agreement for sale) is chosen, it is wise for the vendor to retain a registered mortgage or an agreement for sale as security.

Other mechanisms

There are a number of other mechanisms that can be used to facilitate the transfer by sale. These include such things as:

- Promissory notes — can be used as a transfer tool for machinery, livestock, quota, crops and supplies, and to a lesser extent for land and buildings when secured by a mortgage. Holding a note is attractive to the parent(s) because it spreads the income from livestock and supplies.
- Option to purchase — sometimes included in a will, a lease or a business agreement between proprietors, partners or shareholders. It may permit the purchase of the property at an agreed or formula price.
- Buy-Sell agreement — parties to an agreement are certain that the farm should be kept intact, a buy-sell agreement can be included in a business agreement so that the surviving party must purchase the deceased party's interest or shares.

See section *J. Financing options and purchasing arrangements,* on page 61, for more information about transfer of sale.

Transfer by gift

While there are few farmers who can afford to give their entire farm to their successors, transferring some assets as gifts can help a child gain a beginning equity in a farm. It also helps the child get over the hurdle of market prices. With such equity, the successor has borrowing power to raise additional capital for the farm operation. By transferring assets through gifts, the parent(s) reduce the size of their estate. Some of the farm assets may be gifted with little or no tax implications, others cannot and others may be reduced in price through rollover provisions — see "Rollover Provisions" on page 45. The exception is inventory (including livestock), which is fully taxable in the year of sale. This reduction in price helps a successor start to farm and may defer income tax on capital gains and recapture of capital cost allowance.

Transfer by bequest

A bequest is a gift upon death directed by an individual's will. Farming and other assets can be transferred by bequest through the will. The will is a legal tool used to direct the division of an individual's estate at death to various beneficiaries and to name the person(s) (formerly referred to as an executor, now called "estate trustee") who will oversee and wind up the affairs of the deceased and distribute the estate.

If a farmer dies intestate (without a will), the disposition of the estate is directed by provincial law. This disposition may not agree with the intentions of the deceased or with the desires of the family.

Further discussion of wills and other legal items can be found in section *H. Legal considerations,* on page 46.

Given the role that wills can play in estate plans and the complexity of farm businesses today, most farmers should seek legal and tax advice when preparing and updating wills.

Because of the desire to make plans for the future, especially for the benefit of the younger generation, transfer of property by the will after death should be a contingency plan continually updated as circumstances change. For example, when the family is young, the main purpose of a will should be to ensure the continued support of a surviving spouse and dependent child(ren). If both spouses are killed, the estate is often left equally for the support of all young children. However, as the family matures, it becomes more practical to allow the transfer of some assets to those of the next generation who plan to continue farming.

Combination (gift, sale and bequest)

When it comes to transferring their farm business, most parents hope to use some gift, use the rollover to reduce the price to their farming child(ren) upon a sale and have any remaining assets dispersed by the will. This could also involve forgiveness of debt in the will or could require continued payments by the farming child to other beneficiaries. The combination of these strategies will be unique for each farm and family.

Tenancy — type of ownership

Land and buildings may be registered in the name of people, a partnership, a corporation or a combination. If owned by a partnership, the tenancy may be referred to as "partners." When co-ownership by two or more parties exists they must decide on the form of tenancy.

Joint tenancy means that the real property automatically goes to the survivor(s) if one party dies. An interest cannot be directed by will. Joint tenancy is usually the option preferred by spouses.

"Tenancy-in-common" is when each party owns an undivided interest in the whole property. There is no right of survivorship; it must be directed by a will. Tenancy-in-common is preferred when parties other than spouses are registered as owners.

G. Tax considerations

Many questions and concerns related to farm succession planning are focused on tax and developing tax planning strategies. While taxes are a consideration when developing a succession plan, they should not be the only consideration. The most important thing is to accomplish the goals of the family members.

No matter how the property changes hands or who receives it, there are tax implications for both the person making the transfer and the recipient. The majority of farm businesses have a deferred tax liability. While the profitability of the farm business and attaining everyone's goals must still be the main farm management concerns, financial planning and the use of good accounting and tax management advice can help reduce tax liability.

Details regarding various taxes may change if provincial or federal legislation changes. Therefore, professional tax advice should be sought before a major transfer decision is made.

For the purposes of this publication and specifically within family transfers, there are both provincial and federal tax issues to consider. At the provincial level, there is the *Ontario Land Transfer Tax*. At the federal level, there are considerations related to rollover provisions, capital gains exemptions, alternative minimum tax (AMT) and harmonized sales tax (HST). Additional information about the tax implications of within-family transfers can be obtained from the OMAFRA Factsheet, *Taxation on the Transfer of Farm Business Assets to Family Members.* With respect to tax considerations on the sale of farm assets to a non-related third-party, see the OMAFRA Factsheet, *Taxation on the Sale of Farm Business Assets.* For more information about Ontario Land Transfer Tax and the specific exemption for within-family transfers, please see the Ministry of Finance's Tax Bulletin, *Exemption for Certain Transfers of Farmed Land under the Land Transfer Tax Act.*

Provincial-level taxes

Ontario land transfer tax

Land transfer tax is paid on the purchase of an interest in land. Every person obtaining an interest in land is liable to land transfer tax. The tax is calculated on the actual value of the sale or transfer. In certain circumstances, the *Land Transfer Tax Act* (Act) deems this value to be the fair market value of the land. The Act defines land to include the land itself, buildings, estates, options, leasehold interests and fixtures.[13]

The act is administered by the Ministry of Finance, Land Taxes Section, 33 King Street West, 3rd Floor, Oshawa, Ontario L1H 8H9, phone: 905-433-6361.

The tax is generally payable at the time the conveyance is submitted for registration electronically or to a **Land Registry Office** by the person tendering for registration of a conveyance of land. For an unregistered disposition of a beneficial interest in land, the return and tax payable are required to be delivered to the Ministry of Finance by the thirtieth day after the date of the disposition. Statements or affidavits are required to declare the true value of the total consideration given and to declare the residency status of persons acquiring interests in the affected land.[14]

The *Land Transfer Tax Act* and its regulations provide for various exemptions and deferrals of tax.

Taxable conveyances

This tax applies to the value of the consideration for a conveyance of most non-Crown land in the Province of Ontario. The conveyance of land includes the granting, assigning, releasing, surrendering or disposing of land in Ontario. It also includes an agreement to sell or an option to buy land. Leases of over 50 years in duration are included.

Non-taxable conveyances

Ontario land transfer tax is a broad-based tax with few exemptions. However, no tax is chargeable for leases of 50 years or less duration, the conveyance of land solely as security for a mortgage, transfers by gift and most other changes of title if no consideration is paid.

Rate of tax

The current tax rates (effective from January 1, 2017) are as follows:

- 0.5% of the value of consideration for the transfer up to and including $55,000 (i.e., half of 1% on the first $55,000 or $5 per $1,000).
- 1% of the value of the consideration that exceeds $55,000 up to and including $250,000 (i.e., 1% between $55,001 to $250,000 or $10 per $1,000).
- 1.5% of the value of the consideration that exceeds $250,000 up to and including $400,000 (i.e., 1.5% on the amount between $250,001 to $400,000 or $15 per $1,000).
- 2% of the amount by which the value of the consideration exceeds $400,000 for land that contains at least one and not more than two single-family residences. However, farmland eligible for the Farmland Property Class does not pay this 2% on values over $400,000 but rather only the 1.5%.

Example: A purchaser of a parcel of farmland (eligible for the Farmland Property Class Program) for $1,250,000 pays:

LAND TRANSFER TAX (%)	VALUE OF CONSIDERATION	TAX OWED
0.5%	$55,000.00	$275.00
1.0%	$195,000.00	$1,950.00
1.5%	$150,000.00	$2,250.00
1.5%	$850,000.00	$12,750.00
Total	**$1,250,000.00**	**$17,225.00**

Exemptions for certain transfers of farmed land[15]

However, effective March 28, 2003, an exemption from tax may apply where there is a transfer of farmed land between related individual(s) with the principal purpose to continue to farm the land by one or more of the individuals. Each of the transferees and the individual(s) transferring the land must be related individuals.

Furthermore, land transfer tax may not be required when land is transferred to a family farm corporation. Again, the land is transferred (or conveyed) for the principal purpose of the transferee corporation (the one receiving it) to continue farming on the land. Certain conditions apply, including that 95% of the value of the assets of the corporation must be farming assets.

Further details of these exemptions and the procedures for claiming them are explained in the Ministry of Finance's Tax Bulletin *Exemption for Certain Transfers of Farmed Land under the Land Transfer Tax Act.*

Federal-level taxes

Federal tax considerations can be broken down into three main areas:

- capital gains and capital gains exemption
- rollover provisions
- alternative minimum tax (AMT)

The OMAFRA Factsheets, *Taxation on the Transfer of Farm Business Assets to Family Members, and Taxation on the Sale of Farm Business Assets,* contain further details and discussion of specific issues, including income tax rollovers and deferrals, transfers upon death, transfers while alive, capital gains exemption, reserves and forgiveness of debt, alternative minimum tax, the sale of inventory, sale of depreciable capital property (i.e., machinery, equipment and buildings) and the sale of marketing quota. Table 2. *Summary of tax implications of transferring assets to family members,* provides an overview of the various categories of farm assets, how they are taxed when transferred within family and tax planning options.

Table 2. Summary of tax implications of transferring assets to family members

TYPE OF ASSET	SALE VALUE WITHIN FAMILY	TYPE OF INCOME CREATED BY TRANSFER	HOW IT IS TAXED	WHEN IT IS TAXED	TAX PLANNING OPTIONS
Farm inventory: cash basis	Transfer at FMV.	Farm income in year payment is received.	• At personal rate for sole proprietors/ partner of a partnership. • At corporate rate for a corporation.	Added to income and taxed in year payment is received.	Optional and mandatory inventory adjustments and basic herd deductions may be available. Payment may be made over several years using a note or open account.
Farm inventory: accrual basis	Transfer at FMV. No deferral.	Farm income in year actually sold.	Same as cash basis — see above.	Taxed in year actually sold.	Beginning inventory is a deduction in the year of sale.
Machinery and equipment: post-1971 (Part XI)	Transfer at between $0 and FMV but normally between UCC and FMV.	Possible recapture of capital cost allowance that is added to farm income. Possible capital gains.	Recapture of CCA added to income and taxed at personal. 50% of capital gains added to income. No exemption available.	No reserve for recapture. Recapture added to income in year of sale of machinery or equipment.	Arms'-length sale Replacement property rules to defer recapture (some cases). Timing of sale. Defer recapture by electing to move property from "Classes 2 through 12" into Class 1 before sale. **Within family—** Transfer at UCC with no tax cost.

TYPE OF ASSET	SALE VALUE WITHIN FAMILY	TYPE OF INCOME CREATED BY TRANSFER	HOW IT IS TAXED	WHEN IT IS TAXED	TAX PLANNING OPTIONS
Buildings: post-1971 (Part XI)	Transfer at between $0 and FMV but normally between UCC and FMV.	Possible recapture of CCA, which is added to farm income. Possible capital gains.	Recapture of CCA added to income and taxed at personal. 50% of capital gains added to income.	Recapture is added to income in year of sale.	$1,000,000 capital gains exemption* can be utilized (if available) to offset any capital gains. Capital losses can be deducted against capital gains. Replacement property rules can be used. A capital gains reserve may be available to spread any gain over 5 or 10 years (in case of sale within family). Within family —Transfer at UCC with no tax cost.
Part XVII: pre-1972 machinery, equipment and buildings	Transfer at $0 or FMV	No recapture of CCA. Possible capital gains.	50% of capital gains is added to income.	Capital gains are income in year of sale of machinery and equipment. No recapture.	$1,000,000 capital gains exemption* can be utilized (if available) but only for the buildings. For capital gains on buildings, a capital gains reserve may be available to spread any gain over a maximum of 5 years, or 10 years if sale within family. Within family — Usually transfer at FMV.
Quota	Transfer between $0 and FMV	Recapture of CCA quota can be taxed as a capital gain if an election is filed or as business income that is eligible for the capital gains exemption if no election is filed.	Recapture of CCA added to income. 50% of capital gains is added to income.	Taxable in year of sale.	$1,000,000 capital gains exemption* can be utilized (if available) as long as the quota was owned for at least a 24-month period. Replacement property rules can be used to defer capital gains. Election can be used to reduce the amount of CPP that would be payable. A reserve may be used if available when an election is filed. AMT is payable on quota if an election is filed.

TYPE OF ASSET	SALE VALUE WITHIN FAMILY	TYPE OF INCOME CREATED BY TRANSFER	HOW IT IS TAXED	WHEN IT IS TAXED	TAX PLANNING OPTIONS
Land	Transfer between $0 and FMV but normally between ACB and FMV.	Possible capital gain.	50% of capital gains is added to income.	Taxable in year of sale.	$1,000,000 capital gains exemption* can be utilized (if available). ATM could be payable on land, if exemption is utilized. A capital gains reserve may be available to spread any gain over a maximum of 5 years, or 10 years if sale within family. Replacement property rules may allow for the deferral of capital gain.
House	Transfer at $0 or FMV (NOT in between).	Capital gain.	Individuals are able to claim a principal residence exemption from capital gains.	Taxable in year of sale.	Use the "principal residence exemption" or the optional method of reducing the total capital gains by $1,000 plus $1,000 per year of ownership for every year the house was used as the principal residence since 1971.
Farm corporation shares: partnership interest	Transfer between $0 and FMV normally between ACB and FMV.	Possible capital gains.	50% of capital gains is added to income.	Taxable in year of sale.	$1,000,000 capital gains exemption* can be utilized (if available). A capital gains reserve may be available to spread any gain over a maximum of 5 years, or 10 years if sale within family.

* NOTE: Change in 2016 federal budget. Consult a tax advisor to clarify which exemption is eligible to be used.

Capital gains

The payment of income tax on capital gains began January 1, 1972. Gains and losses are calculated on the difference in value between the *adjusted cost base (ACB)* and the sale price of capital property such as farmland, rental properties, stocks and personal property. Depreciable property, such as machinery, equipment and buildings, is subject to capital gains but cannot incur losses. For example, selling a machine for more than the original cost results in a capital gain. If it were sold for less, the loss on the sale is not deductible for tax purposes. The exception to this is when a complete class of assets is sold for less than the undepreciated capital cost balance in that class, resulting in a terminal loss.

Adjusted cost base

To calculate a capital gain or loss, one must know the adjusted cost base (ACB). This is the amount deducted from the selling price to determine a capital gain or loss. For property obtained before 1972, the ACB is the greater of original cost or the December 31, 1971, value. If obtained after 1971, the ACB is the purchase price plus costs. For land, the cost base is adjusted by adding any non-depreciable capital improvements, such as a new orchard. Legal and realty fees are added to the adjusted cost base. The ACB of buildings would be increased by any capital improvements or additions, beyond just the normal maintenance and repair. An example of a capital gain calculation is shown in Table 3.

Taxation of capital gains

Fifty percent of a capital gain is tax free. The other half of a capital gain is subject to regular tax. This portion, called the taxable capital gain, is added to other personal income in the year it occurs. Any allowable capital losses can be deducted from the taxable capital gains in that year.

The non taxable portion of the gain may result in the application of the alternative minimum tax (see below). This is more likely to apply where the Capital Gains Exemption is used.

Some tax credits may be affected in the year or the year after you have a capital gain even though your capital gains exemption is used. This is because the taxable capital gains are included in calculating your net income for income tax, which in turn affects the calculation of tax credits. (The exemption is used just before calculating the taxable income.) This increase in net income may also reduce Old Age Security and Child Tax benefits in the year following the capital gain.

$1,000,000 capital gains exemption[16]

The $1,000,000 capital gains exemption is available to individuals on the sale of *qualified farm property* (see next page). An individual who used his or her entire $100,000 personal exemption, when it was eliminated in 1994, has $900,000 remaining. The exemption is also available to partners in a partnership, since any capital gain in the partnership will flow out to the partners, where they as individuals can offset it with the exemption. Corporations do not have any capital gains exemption, however the shares of a family farm corporation are qualified farm property and eligible for the exemption.

Table 3. Calculating Capital Gain

Purchased 1975	$150,000
Legal fees	$3,000
Sold in 2008	$1,500,000
Legal fees	$6,000
Real estate fees	$60,000
ACB = $150,000 + $3,000 + $6,000 + $60,000 =	$219,000
Capital gain: $1,500,000 – $219,000	**$1,281,000**

Qualified Farm Property

Qualified farm property[17] includes:

- farm land and buildings
- shares in a family farm corporation
- an interest in a family farm partnership
- quota and other intangible assets used in the course of carrying on a farm business

Equipment, machinery and inventory are not eligible for the $1,000,000 exemption. However, in a partnership or corporation, the value of equipment, machinery and inventory is included in the corporate shares or partnership interest.

Qualified farm property must meet the following definitions[18]:

Property must be principally used in farming by one of the following qualified users — the individual, the spouse, child or parent of the individual, or by a family farm partnership or corporation of the individual, spouse, child or parent and,

Property purchased prior to June 18, 1987:

- must be used in farming at the time of sale or
- have been principally used in farming for any 5 years during its ownership

Property purchased after June 17, 1987:

- must be owned for 24 months prior to the sale and
- in at least 2 years, the gross farm revenue of one of the qualified users who is actively engaged in farming the property must exceed net income from other sources

or

- the property was principally used by a family farm partnership or corporation in a 2-year period during which time the individual, spouse, child, parent or partnership of which they are a member was actively involved in the farming business

In all cases, the qualifying individuals, whether farming as a sole proprietorship, a partnership or corporation, must be actively engaged in management and/or the day-to-day activities of the business.

Note: In 1994, the $100,000 personal capital gains exemption was eliminated. Individuals could make an election to increase the adjusted cost base of property by up to $100,000 but not exceeding the February 1994 value. If individuals elected to use the $100,000 exemption to increase their ACB on qualified farm property, they are deemed to have disposed of the property and reacquired it in 1994. This means that they must meet the post–June 17, 1987, rules for qualified farm property on a future sale.

Rollover provisions

The farm rollover tax rules provide benefit to farm families who are transferring assets to family members. A rollover occurs when farm property is transferred between parties and the resulting capital gain or recapture of capital cost allowance is deferred for income tax purposes.

A rollover provides a tax deferral until the asset is sold to a third party, when it will be subject to tax calculations. Under the rollover provisions, you can also choose a value that triggers just part of the capital gain and defers the rest, or choose to trigger a gain on only those assets to which the capital gain exemption can be applied.

A rollover can occur where:

- Any capital property (not just farm property) is transferred from an individual to a spouse while alive or by bequest or to a spousal trust[19]
- Farmland and depreciable property, used in the business of farming, are transferred from a parent to a child.
- Farm assets are transferred to a partnership.
- Farm assets are transferred to a corporation.
- A farm partnership interest or farm corporation share is transferred to a child(ren).
- Eligible capital property (i.e., quota) is transferred to a child, while alive, or anyone upon death.[20]
- Any property received by a child on a rollover basis is transferred back to a parent as a result of the child's death, if so elected.

Requirements for tax deferral rollovers from parent to child

To qualify for the rollover, the eligible property must, before the transfer, be principally used in a farming business in which the individual, their spouse, common-law partner or their child or parent was actively involved on a regular and continuous basis.[21] Canada Revenue Agency (CRA) interprets the term "principally used" as meaning the property must have been used in farming for more than 50% of the time of ownership by the transferor. The transfer may take place while the farmer is alive or at the time of death.

Eligible property must be transferred to a child. Such child may be a daughter, son, grandchild, great-grandchild, son-in-law, daughter-in-law, adopted child, step child or their spouses who are resident in Canada. In addition, a person who, at any time before the person attained the age of 19 years, was wholly dependent on the taxpayer for support and of whom the taxpayer had, at that time, in law or in fact, the custody and control.[22] On the death of a child, an election is allowed to transfer the property to a parent on a rollover basis.[23]

The farmer may own eligible property, either solely or jointly.

Eligible property transferred from an estate must vest indefeasibly with a child, which means it must transfer to the beneficiary within 36 months of death with no strings attached. A longer period may be granted if special circumstances warrant it.

Alternative minimum tax (AMT)

Alternative minimum tax (AMT) was introduced in 1986 but is still unknown to some. It is a tax on dividends from Canadian corporations and capital gains. The AMT calculation brings into income the 50% of the capital gain not normally subject to tax. It is most likely to be payable when the capital gains exemption is utilized. Your tax bill will increase if AMT calculated is greater than $6,000.

While RRSP contributions are used to reduce tax, they are not used in the calculation of the AMT. Any minimum tax paid can be carried forward up to 7 years, and used as a credit against any tax payable in those years. AMT is in effect a prepayment of tax that can be refunded in subsequent tax years.

Forgiveness of debt

Forgiveness of debt by a gift that reduces a note or mortgage can have tax consequences to the recipient. Debt forgiveness can impact the use of other farm and capital losses, and ultimately may reduce the adjusted cost base (ACB) of the asset. Parents wanting to gift money to a child should consult their accountant about the best way to do that. Avoid simply writing off debts or exchanging of cheques.

Forgiveness of debt in a will (by bequest) does not have negative tax consequences to the beneficiary. This practice is becoming more common as parents transfer land at FMV to utilize the capital gains exemption. It also assures a stream of cash inflow to the parent(s) while they are alive and the child is running a successful business.

Final points on tax

This section on tax considerations has touched on only a few elements related to succession planning — there are many more to consider during the process. Furthermore, while taxes are something to think about, they should not be the only motivating force behind developing a farm succession plan.

Due to the complexity and specialization of farm tax (especially during a farm transfer), the best advice for anyone is to talk to their professional farm tax advisor or farm accountant about the tax implications of any transfer strategies they are considering. It is a good idea to give the tax advisor as much lead time as possible, e.g., 3–5 years, to get the best results. While the farm family does not need to be tax experts, they will at least need to understand or have access to someone who understands the implications and impact of various strategies as they work their way through the process.

H. Legal considerations

This section will look at wills, probate, Power of Attorney, the *Ontario Family Law Act* and the legal considerations of farm business agreements and structures.

> NOTE: Professional legal advice should be sought before a major transfer decision is made. The legal aspects of farm transfers and related issues such as business structures and agreements are specific, complex and have a number of special rules.

Wills[24]

A will is a legal document in which a person (referred to as the “testator”) provides for the administration and distribution of his or her estate after death. The will must be clear and concise so the testator’s wishes will be fulfilled.

Many farmers rely on the will as the backbone of their farm succession and estate plan; others see it as only one piece of the puzzle. A well thought-out, up-to-date will is much better than no will. However, if a transfer within the family farm is likely, the will should be viewed, as noted above, as one component of the farm succession plan to back up the overall plan and process while the owner is alive. It is critical to keep a will (or wills, in the case of dual ownership) up to date, especially one that deals with complex business issues. Divorce, marriage, births and other life-changing events can invalidate a will or affect significant portions of it. Ensure wills are kept current.

In Ontario, a will, other than a holograph will, must be in written form, signed by the testator (the person making the will) in the presence of two witnesses. The witnesses must sign in the presence of each other and the testator. The witnesses should not be a beneficiary of the will or even be a spouse of a beneficiary. Not following this rule can invalidate the will, including any gifts included the will. "However, in such a case, in order for the gift to be considered valid, the witness would have to bring an application to the Ontario Superior Court of Justice to establish there was no undue influence exerted on the testator."[25]

It should be noted that the proper signing (or "execution") of the will, as described above, must be followed. The witnesses must sign in the presence of each other and the testator for the will to be correctly "executed." If these formal requirements are not met, the will may be invalid.

Holograph wills and codicils

On the other hand, "a holograph will is a will written entirely in the individual's (testator's) own handwriting and signed by him or her. This enables a testator to make a valid will entirely in their own handwriting and signature, without witnesses and such.

A holograph codicil (a handwritten document used to supplement or amend a will) can be used to change a formal will."[26]

Multiple or dual wills

"Recently, in Ontario, multiple wills (also called dual, secondary and supplementary wills) have become an estate planning tool to manage estate administration taxes [formerly called probate fee]. In a multiple will situation, the first will deals with assets requiring a 'Certificate of Appointment of Estate Trustee' (commonly called 'probate'), and the secondary will addresses the assets which do not need to be probated to be transferred. In this way, only the assets in the primary will would be subject to estate administration taxes."[27]

Take care not to revoke the primary will through the wording of the secondary (i.e., revocation of all previous wills) and to sign the secondary will after signing the first will. Clear language is also needed to address issues such as the payment of expenses when there are different beneficiaries under the two wills and also how legacies (i.e. a stated dollar amount) will be handled (either from the primary or secondary will) if there are not enough assets or funds to pay them out in full.

Why a will?

There are many reasons for having an up-to-date will.

- Allows for more efficient administration of large and often complex farm estates, as it gives specific direction as to how the testator wished the estate to be distributed.
- Reduces complications when large estates are to be divided between a surviving spouse and children. These complications are greater where the children are minors.
- Provides for custody and guardianship of children should both parents die. This is a major reason for having wills for everyone with minor children.
- Allows for some discretion in the timing for distribution of assets to children. Otherwise, a child is entitled to his or her share at age 18.
- Allows an estate trustee (formerly called an "executor") greater opportunity for protection and administration of an estate and thus more benefit for the beneficiaries.

What happens when there is no will?

When there is no will, the *Succession Law Reform Act* specifies how an estate will be distributed:

- The surviving spouse will receive an initial preferential share (as determined by the regulations — farmers and farm business owners should check with their legal counsellor for current details) of the value of net assets. If there are no children, the surviving spouse receives all the value of the net assets.

- If there are children, the division of the balance over the preferential share depends upon the number of children.
- If there is one child, the surviving spouse and the child share equally the balance over the preferential share.
- If there is more than one child, the surviving spouse gets one-third of the balance over the preferential share and the children share the remaining two-thirds equally.
- If there is no surviving spouse or children, the estate goes to surviving parents or, if there are no surviving parents, to brothers and sisters or possibly relatives.
- If there are no living relatives, the estate goes to the Canadian government.

Some assets are not included in the calculation of the preferential share. For example, jointly held assets pass directly to the surviving spouse of the joint tenancy by right of survivorship. Thus, they do not pass as estate assets. Joint tenancy assets common to farmers may include land, stocks, bank accounts and bonds. Other assets not included in the preferential share calculation include life insurance policies, pensions, RRSPs and any other similar plans with named beneficiaries.

Choosing an estate trustee or administrator (formerly called an "executor")

The choice of an estate trustee (formerly called an "executor") requires careful consideration, especially when a farm business is involved. The estate trustee's responsibility is to manage the estate — to gather all assets of the estate, pay all legal debts, taxes and expenses of the estate and distribute the balance of the estate in accordance with the terms of the will.

It is wise to consider naming at least one alternative estate trustee. This alternative trustee should be competent in farm management.

Wills may not be problem-free

Wills used as the only or primary farm asset transfer mechanism can give rise to mistrust and insecurity in children, particularly in the children who will be farming, because:

- wills can be changed any time up until death
- wills can be contested by a surviving spouse and/or children if they are excluded
- wills can be an expensive way to transfer farm assets
- wills can be used to implement an "equal treatment for all children" philosophy at the expense of farm viability in some situations
- family law legislation may override a will

Such mistrust and insecurity, if severe, do little for motivation.

Probate issues

"Probating a will is the act or process of proving a will. In Ontario, an application for 'Letters Probate' is now referred to as an application for 'Certificate of Appointment of Estate Trustee with a Will.' Wills are probated where it is determined that the administration of the estate requires legal certification of the validity of a will and judicial confirmation of the authority of the estate executor (now called "estate trustee") to act pursuant to a will. The estate trustee's authority, however, comes from the will itself, and not from the Certificate."[28]

Estate trustees must apply to the court for a Certificate before they can start to fulfil their duties of estate administration and transfer of assets to the beneficiaries. An application for a Certificate of Appointment is also needed if there was no estate trustee named in the will or if the named individual predeceased the testator. This process was formerly referred to as Letters of Administration with Will Annexed.[29]

A Certificate of Appointment (probate) will generally be required to deal with[30]:

- litigation (if the estate is involved in litigation, probate is usually necessary)
- real property issues
- bank accounts (most banks and trust companies require a Certificate of Appointment of Estate Trustee in order to release funds held in accounts)
- shares in public companies
- Canada Saving Bonds
- assets outside Ontario

If the estate trustees must apply to the court for a Certificate, they should do so before they start to fulfil their duties of estate administration and transfer assets to the beneficiaries.

Estate administration tax (probate fees)

Estate administration tax (formerly referred to as "probate fee") must be paid before the court will issue a Certificate of Appointment of Estate Trustee.

The estate administration tax is calculated on the total value of the deceased's estate using this formula:

- $5 for each $1,000 of the first $50,000 of the value of the estate
- $15 for each $1,000 of the value of the estate in excess of $50,000

Power of Attorney

While the will provides for the management of an estate after death, it does not give any authority to anyone during a person's lifetime. Farmers, like anyone else, may become incapacitated as a result of illness, senility or accident. The question then arises, "Who will take care of the individual and their affairs if they become physically or mentally incapacitated?"

A Power of Attorney is a document whereby the individual making the Power of Attorney (the principal) grants someone else, the attorney, (not necessarily a lawyer) the authority to act on his or her behalf regarding business decisions and/or decisions related to his or her personal and health care.

The ability to designate someone as an Attorney arises from the *Substitute Decisions Act,* which came into place in April 1995. There are basically two types of Power of Attorney:

(1) "Power of Attorney for Property" — wherein someone is appointed to make business and financial decisions on behalf of a person if he or she is not able to make them

(2) "Power of Attorney for Personal Care" — wherein someone is appointed to make medical and other health care decisions on behalf of a person if he or she is not able to make them

It is not necessary to have the same person for both Power of Attorney for Property and for Personal Care. Furthermore, it is possible to utilize a limited Power of Attorney for a specific purpose or time length.

But no matter what, the individuals who will act as the attorney(s) should be selected carefully. They should be trustworthy and able to competently handle the principal's affairs. It is practical to choose someone who lives close enough to be able to deal with situations easily. The individual making the Power of Attorney for Property must be at least 18 years of age and mentally competent. A Power of Attorney for Personal Care can be made by anyone over the age of 16 years. The attorney for property must be at least 18 years of age and mentally competent to exercise the Power of Attorney.

A principal may authorize more than one person to act "jointly" or "severally." If two or more people are "jointly" authorized, all would have to sign any documents to make them legal. If two or more people are "severally" authorized, any one of them can exercise the power and act on the individual's behalf. If multiple attorneys are required to act jointly, there should be instructions on handling disagreements included in the Power of Attorney. Some lawyers suggest the naming of an alternate in the event that the original individual(s) is/are unable to act as attorney.

In the absence of a Power of Attorney, the Public Guardian and Trustee office will look after a person's affairs. Family members, a trust company selected by the incapable person's spouse or a person who already has a Power of Attorney for Property for some but not all of the incapable person's property may apply to replace the Public Guardian and Trustee. Security may be required to be posted by this new guardian.

A Power of Attorney made before 1995 should be reviewed by a lawyer to be sure that it is valid under the new legislation. Specific wording is required in order to be valid.

The Power of Attorney is often drawn up at the same time as a will and should be updated as circumstances change. Lawyers will often retain the document in their safe until the principal's health deteriorates, limiting the possibility for it to be abused or misplaced.

It is important for a farmer to discuss his or her wishes with the person named in the Power of Attorney so the attorney can manage the principal's affairs in the desired manner.

One of the problems with a continuing Power of Attorney for Property (i.e., a farm business) is that once it comes into effect, it will remain in effect until revoked. If revoked, it ceases to exist and cannot be exercised again. Accordingly, if a person is mentally competent, but wishes to leave his business affairs in the hands of someone else for a short period of time, a continuing Power of Attorney for Property should not be used. A separate Power of Attorney for a specific purpose or a limited time should be prepared, as mentioned previously.

For example, financial institutions have Power of Attorney forms that apply only to that institution. The Power of Attorney may be limited to the operation of bank accounts and payment of bills, mortgages and loans or it may be general and permit the attorney to borrow money in the principal's name and manage investments. As with any legal document, it must be read carefully before signing and a lawyer consulted if there are concerns or questions about it. The lender's Power of Attorney may be useful in addition to a legal Power of Attorney, but is usually too limited by itself to allow someone to carry on the farming business.

Under the *Substitute Decisions Act,* people can choose someone through a Power of Attorney to make personal care decisions for them if they are mentally incapable of making the decisions. However, they cannot appoint as attorney for personal care someone who is providing them with care for compensation unless that person is also a spouse, partner or relative. An attorney for personal care must be at least 16 years of age.

The Power of Attorney for Personal Care can include instructions to the attorney, with regard to the principal's wishes. The instructions must be clear and specific and should be discussed with the person appointed as attorney. It should be remembered that the principal will not be able to clarify his or her wishes at the time the Power of Attorney is needed.

A Power of Attorney is an important back-up component to the farm succession plan — it is just part of good business planning. And just like the will, the Power of Attorney should be updated regularly and/or as circumstances change.

Ontario Family Law Act

The *Family Law Act* deals with many family law issues including division of property upon marriage breakdown, disposition of property following the death of a spouse, support of spouses and children, creation of domestic contracts and the break-up of domestic relationships.

The *Family Law Act* is divided into six parts:

PART I – FAMILY PROPERTY (I.E., DIVISION OF PROPERTY)
PART II – MATRIMONIAL HOME
PART III – SUPPORT OBLIGATIONS
PART IV – DOMESTIC CONTRACTS
PART V – DEPENDANTS' CLAIM FOR DAMAGES
PART VI – AMENDMENTS TO THE COMMON LAW

As noted, the Act deals with the dissolution of all marriages either by death or marriage failure (physical separation, divorce or annulment). In the case of death, the surviving spouse makes a choice either to take what is bequeathed in the deceased spouse's will or to take an entitlement under the *Family Law Act.*

The division of property part stipulates that legally married spouses are entitled to half the value of property (wealth) accumulated during marriage when the marriage dissolves. Such equalization is accomplished through an equalization payment. A mathematical calculation determines each spouse's "net family property" value. It is possible, in some circumstances, for the court to grant an unequal division of net family property where an equal division would be unconscionable or deemed unjust.

In a farming context, property in a net family property calculation could include any farm and personal asset wealth such as crops, livestock, machinery, RRSPs, moneys owed to spouses, savings, investments, pensions, partnership interests or corporation shares. The only deduction would be debts owed by the spouses. However, there are exclusions from the net family property calculations for each spouse. Such exclusions include:

1. Property — the value of — (other than a matrimonial home) owned by a spouse prior to the date of marriage
2. Property (other than the matrimonial home) acquired by gift or inheritance from a third person after the date of marriage
3. Income from a gift or inheritance acquired after the date of marriage provided the donor or testator expressly stated it was excluded from the spouse's net family property
4. Damages or a right to damages for personal injuries, pain and suffering or the part of the settlement representing those damages
5. Proceeds or the right to proceeds as a beneficiary of life insurance policies
6. Any property (other than the matrimonial home) that can be traced to #2, 3, 4, 5
7. Property that spouses agree by a domestic contract to be excluded from the spouse's net family property

There is also a provision allowing a spouse to make application under the Act to have divided the difference between the net family properties (just as if the spouses were separated), if the other spouse is improvidently depleting his or her net family property even though there is no marriage breakdown.

The *Family Law Act* has a direct impact on farm succession planning. Will preparation, intergenerational farming arrangements and family farm asset transfers, will all require consideration of this Act. In family farm transfers, the parents' financial security often depends on the continued soundness and viability of the farm business now managed by their child(ren). Such soundness and viability could be threatened by a marriage failure involving the farming child(ren).

Domestic contracts (i.e., marriage contracts) may be a way to handle the potential impact of some of the provisions of the *Family Law Act*. The following situations might warrant considering a marriage contract.

- Young people entering marriage who want assurance (or their parents do) that assets will not be shared in part or in total in the event of marriage failure.
- Anyone going into a second marriage or entering marriage later in life who has substantial wealth in homes or businesses. Such people may not wish to divide their wealth equally should marriage fail.
- People who are happily married but wish to do some succession planning that includes a domestic contract.
- Business associates who want assurance that marriage failure of fellow associates will not create a claim that could destroy the business.

Negotiating a domestic or marriage contract can be delicate and hazardous. The main purpose of a domestic contract should be carefully considered. It allows people who are getting married or who are already married to make their own agreements as to their rights and obligations if their marriage fails. Regardless of one's attitude toward domestic or marriage contracts, it is beneficial for people in the above situations to have a good understanding of the considerations and implications of the Act. They should consult with a lawyer.

When transferring farm assets to child(ren), parents should consider the implications of the *Family Law Act*. Again, they should consult with a lawyer to discuss the implications of sales, debt, gifts and other such related topics.

Legal considerations of farm business agreements and structures

One of the key roles of the legal advisor in farm succession planning is to raise the legal considerations, provide legal advice and assist with drafting and review of appropriate farm business agreements, which will be used to implement the succession plan.

As described in the next section, these agreements range from wage/salary/employment agreements to partnership and shareholder agreements. Please see the section *Legal components of farm business agreements,* on page 59, for further information.

I. Farm business structures and agreements

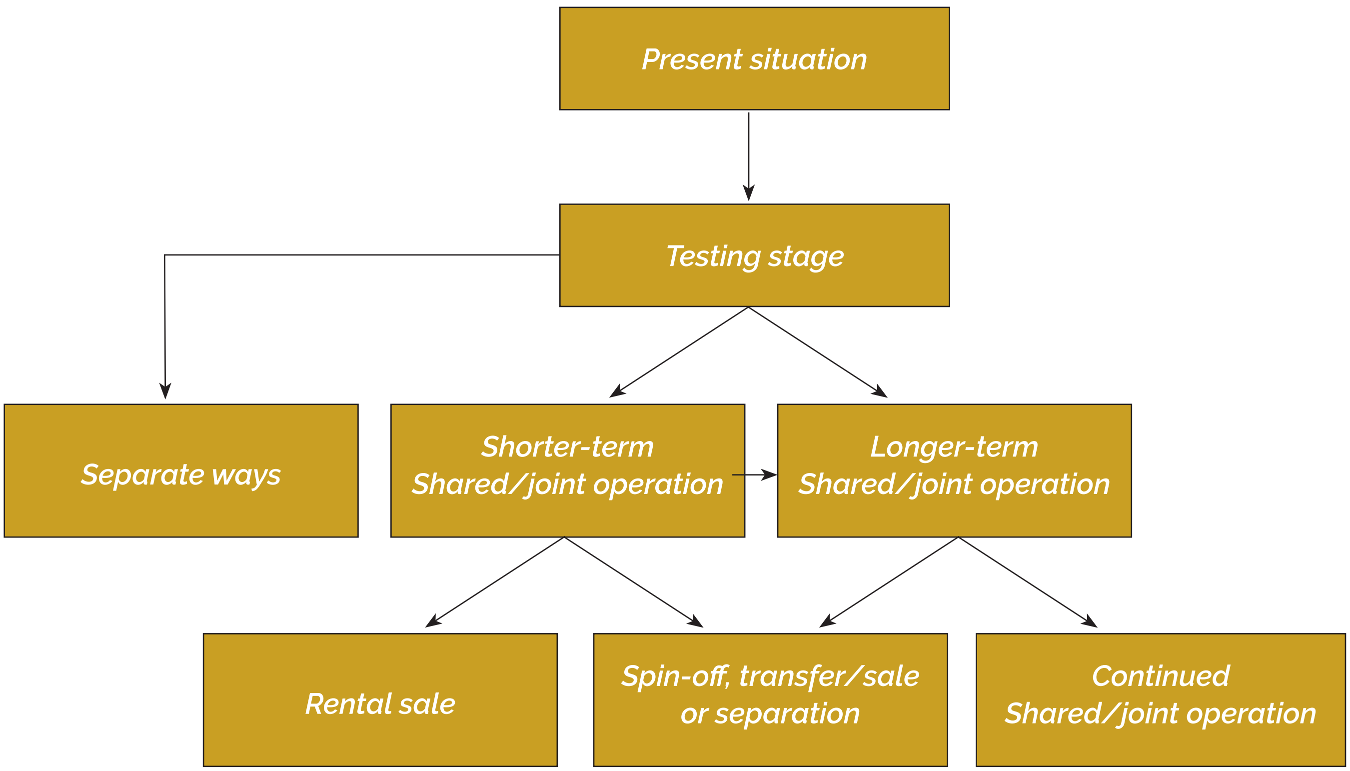
Many farm business structures, agreements and arrangements are a means of getting a younger person, usually a family member, started in farming. This is achieved by transferring the management and ownership of some of the farm business to a successor or by helping the successor to buy additional assets. As time goes on, such agreements and arrangements help in the operation of a multi-person/family farm business. These can range from simple to complex — unique to each situation.

Steps of transfer agreements and arrangements

Even after a review of the current situation and future potential, there may be some uncertainty regarding the commitment of both generations to a longer-term joint operation. Figure 6 attempts to illustrate some of the steps that a family can follow as business progresses.

Most families find it convenient to have a trial period or testing stage until the uncertainties are resolved; often an "employment agreement" is used. When the current owners are older, the trial period may be followed by a transfer, whereas when the owners are still young, the family members may either go their separate ways or enter a shared/joint operation. The shared/joint operation is often flexible enough to develop into a long-term operation or to allow a splitting off into separate operations or an immediate transfer. The type of enterprise, land base, market outlets, etc., will all affect the ease of dividing up an operation. In many complex situations, it makes business sense to carry on a shared/joint operation if personal relations are satisfactory.

Figure 6. Steps of transfer agreements and arrangements



There are three basic forms of business structures (also referred to as business organizations):

(1) the sole proprietorship
(2) the partnership
(3) the corporation

The variations in these three basic forms are limited only by the imagination of planners and the applicable rules, regulations and laws.

The proprietorship, by necessity, involves personal ownership of farming assets, whether individually or jointly. However, the use of a partnership or a corporation creates extra options and considerations. For example, a partnership or corporation can own all of the farm business assets. Alternatively, some or all of these assets can be owned personally outside of the partnership or corporation.

Similarities of proprietorship, partnership and corporation

Communications are essential — The personal and family dynamics aspects of farm succession are important. No matter which form of business structure is chosen, the family members should plan for annual, monthly and perhaps weekly and daily meetings to make business decisions and evaluate results.

Understanding of the agreement removes tensions — Whether it is two paragraphs or 10 pages, an agreement must be understood before it is signed. The agreement should provide some assurance and an explanation as to how any dispute or the will be handled (i.e., a dispute resolution process). Unfortunately, statistics show that a high percentage of farm business operations have no written business agreement.

Income splitting and wages — A proprietor may pay his or her spouse a wage or salary for work performed in the farm business. A husband-wife partnership can split profits when both are business partners. With a corporation, both the husband and wife can receive a salary if both are employed in the business.

Payment to children — All three forms of business permit the payment of wages to children for work done in the business.

Sole proprietorship

The sole proprietorship remains a basic form of farm business structure or organization. In developing a farm succession plan, it is necessary to determine the appropriate form of business for the next generation too. If the successor wants to be a proprietor, it would be inappropriate to form a corporation.

The proprietorship is designed for the operation of a business by an individual in his or her own capacity. The involvement of other family members must be by contractual arrangement as employees or in a joint business operation.

Some of the advantages of the sole proprietorship include:

- less regulation/administration
- independence — The rural tradition is strong in the belief in the proprietor. This attitude must be considered, where "knowing who's boss" is important.
- testing business relations — For the majority of farms that are proprietorships, this is a useful way to apprentice the younger generation. On livestock farms, wages are common. On cash crop farms, wages are often provided, sometimes supplemented by an enterprise developed by the successor on leased land.
- simple recordkeeping and tax simplicity— The simple records systems and low-cost accounting fees for the small business are attractive.
- capital gains exemption — The principal residence exemption from capital gains is a favourable factor.
- beneficial income tax options — Deduction of losses from other income in start-up years is helpful even if restricted.

Some of the disadvantages of the sole proprietorship include:

- Simple records can be poor records, providing insufficient information for business analysis and decision-making. Business and personal items can be confused. A balance sheet for a proprietor is a rarity.
- The sole proprietorship is designed for one boss, making it awkward to share business growth, profits and responsibility over the long run without special agreements.
- Estate planning relies heavily on the farmer's will, which might not be kept up to date or even exist.

- At higher income levels, personal tax rates become progressively higher.
- Asset exposure – if things go bad, all of your assets are exposed; it's an extension of yourself (i.e., personal liability)

The role of the sole proprietorship

It is suitable to retain a proprietorship when the business is of modest size and/or a testing period is needed and when the successor wishes to be a proprietor too. Farmers with a preference for simplicity in their business arrangements are likely to retain their proprietorships. Keeping flexibility in mind during the drafting of any agreements will be the key to bridge the gap with the next generation. However, many sole proprietors need the goal of improved records and business financial statements.

Farm partnership

While the term "partnership" is not defined in the *Income Tax Act,* it generally refers to a relationship where two or more people join together to do business with a view to making a profit.

It should be noted, though, that co-ownership of property does not necessarily create a partnership. Two individuals owning farmland together are not automatically considered to be in partnership. A partnership may exist when the following conditions are present:

- an agreement to share profits and losses of a business
- joint ownership of property
- the use of the words "partner" and "partnership" in written documentation
- the use of a partnership name, joint bank account, joint accounting and financial
- the formal registration as a partnership

Like proprietorships, partnerships have both advantages and disadvantages. Some advantages include:

- The partnership can be a very flexible structure and, with the proper documentation, can help in family business situations to allow for income splitting between spouses, between parents and child(ren) and even between siblings and non-related parties. With good records, it can be an excellent form of family business structure.
- Partnerships are often cheaper to establish and maintain than corporations because there are less accounting and legal services needed.
- Partnerships often have increased ability to raise funds as well as attract new potential owners.
- Partnerships are easier to dissolve than corporations.
- Profits are shared, thus salary payments and deductions are unnecessary.
- For an intergenerational transfer, the child can ease into the business, jointly operate for a while and then allow the parent(s) to ease out. Sharing of responsibility and profits is possible.
- Tax rules allow for the transfer of assets from a sole proprietorship into a partnership without incurring any immediate tax, provided the rules are followed and forms filed. Property can also be transferred from a partnership to a corporation on a tax-deferred basis. An interest in a partnership can be passed (on a tax-deferred basis) to descendants, either while alive or at death.
- It may be possible to deduct farm losses from other sources of income. However, the sharing of losses must be in a reasonable manner, not just deducting farm losses from the income of the partner employed elsewhere.

- Having multiple business owners, partnerships are able to leverage the various and often complimentary skills available.

Some disadvantages include:

- Legal liability for all partners is a key consideration. In a partnership, a partner is not only liable for his or her own action but is also jointly liable for the actions of all partners. Furthermore, all partners' assets both inside and outside the partnership are exposed to any claims from creditors' and such.
- If good records are not maintained, it is difficult to know who has contributed or withdrawn funds and who owns what.
- There is no protection from individual tax rates, unlike in corporations. Since partners report income from the partnership personally, this income is taxed at individual marginal tax rates.
- Even though partnerships are easier and usually cheaper to start and maintain than corporations, a partnership is still more complex than the sole proprietorship. Additional accounting and bookkeeping will be necessary each year to record information, to determine the tax value of each partner's interest and the allocation of profits.

The role of the partnership

As long as good records are maintained, partnerships provide good flexibility. Most of the advantages of co-ownership, profit sharing and cooperative management are available without the formality of a corporation. But a partnership is easier to get out of than a corporation if the partners should wish to split and go their own directions. A partnership will be most suitable for the longer-run shared/joint operation where annual tax savings are not a major concern. Thus it is important to have a written agreement and provide as many legal safeguards as possible for all partners.

Asset ownership will be dictated by the situation. There is a fairly broad continuum of asset ownership. On the one extreme, the parties own all the assets outside a partnership and merely pass income and expenses through the partnership. On the other extreme, all the assets are owned by the partnership and each partner owns an interest in the partnership. Between the two extremes, there are those cases where some assets are owned by the partners and some by the partnership.

In general, improved records of operations, personal drawings and asset ownership are required. These records should also provide better financial statements.

Additional information about farm partnerships can be found in the OMAFRA Factsheet *Farm Business Partnerships.*

Farm corporation

A corporation is a formal business structure or organization registered under the *Business Corporation Act of Ontario*. It is recognized as a "separate legal entity" and as such can do anything a person can do, including conduct business; buy, own and sell assets; file income tax; have debt and hold mortgages; rent land and/or other assets from another individual or entity; rent assets to another individual or entity; and enter into contracts.

As with sole proprietorships and partnerships, corporations have advantages and disadvantages.

Some advantages include:

- The corporate tax rate is lower than the highest personal rates, on income from an active business, so there is a tax deferral on money left inside the corporation.

- It is possible to pay off debt faster because the corporation is taxed at a lower rate than an individual making payment with after-tax dollars paid at the higher personal rates.
- There is some limited liability. However, most lenders require personal guarantees, so in the end the individual is still liable for corporate debts.
- Sophisticated financial statements (balance sheet, income statement and statement of changes in financial position) are required. Better records are then needed to produce the better statements; as a result there is better information for decision-making.
- A corporation is a perpetual organization. This can allow for a smooth transfer between generations because a shareholder needs only to transfer shares rather than real property to family members.
- The personal capital gains exemption can be utilized when assets are transferred into a corporation and on the sale of the shares of the corporation.

Some disadvantages include:

- The initial and ongoing costs will be higher, because both the corporation and the shareholder must file tax statements.
- Due to the complexity of the business structure and the added reporting requirements, more professional advice and assistance will be required.
- Corporations often face greater regulations.
- If the farm property is rolled into a corporation, the personal residence exemption on capital gains may potentially be lost.
- A corporation does not have any capital gains exemption, unlike an individual.

Role of corporations

The corporate structure tends to fit the larger, more complex business. Because it usually involves several shareholders, the formal nature is more business-like in approach. When tax savings are available, the added costs of forming and operating a corporation may be offset.

Because of its formal nature, a shareholder agreement with a buy-out clause should be prepared. Once formed, the transfer of shares can be easily handled on a gradual basis. Thus the corporation can be suitable for the longer-run shared/joint operation when the testing period has passed and the sense of direction is clear.

The ownership of assets, as with a partnership, will be dictated by each individual situation. The normal mechanism involves the rolling of farm assets into the corporation. The farmer owns shares in the corporation and the corporation owns the assets. However, where individual ownership is important, real property can be held aside and leased to the corporation. This property may qualify for a tax deferral on a transfer to a child.

Additional information about farm corporations can be found in the OMAFRA Factsheet *Farm Corporations.*

Business agreements

Many types of farm family business agreements, both written and unwritten, exist. They range from wage/salary/employment agreements to rental agreements to revenue-sharing agreements to partnership and shareholder agreements.

If challenged, the title of an agreement is less important than the facts presented about how business was conducted, assets owned, tax returns filed, etc. However, setting out in a written agreement the manner in which business is to be conducted helps establish the intent of the parties to the agreement.

Wage/salary/employment agreement

A wage/salary/employment agreement can serve for a period of time while both generations are considering the future. It is wise to provide a reasonable wage/salary level and consider added incentives for improved production or profits. The successor generation may be employed by a parental proprietorship, partnership or corporation. Too often, however, there is no contract with family members. As well, all wage deductions become necessary. When a family is used to dealing with hired employees, the extra payroll records are little problem. However, if the successor is the only employee, wage deductions and associated paperwork can be an added complexity.

Rental agreements

In some cases, it may not be appropriate for the current owners to sell their farm assets. However, they can retain ownership while delegating a degree of control to their successors by renting the assets. Renting to the next generation allows them to gain experience without incurring a huge debt load.

The current owners should confirm with their professional advisors that the rental of assets to successors does not disqualify any tax deferral opportunities.

It is common for the next generation to buy some assets and rent others. From a business perspective, it may be best for the successor to invest his or her limited resources in productive assets (e.g., livestock) and lease capital assets (e.g., farm machinery) from the current owners.

Like the other forms of business agreements, a lease or rental agreement should be comprehensive enough to protect all parties to the agreement. It is common to have clauses included that compensate the tenant for the depreciated value of capital improvements paid for by the tenant. The tenant may also be granted an option to purchase the leased property. Some, none or all of the rent may be allowed towards the purchase price. Repair, care and maintenance are issues to consider. Rental agreements should address the ownership, valuation and retention of crop and livestock inventories and clarify the responsibilities for stewardship and environmental issues. Insurance requirements must also be investigated.

In any agreement, it is a good idea to include a dispute resolution mechanism describing a process by which a dispute between the parties to the agreement would be handled. For example, it might have a time period (i.e., 48 hours) when there would be no discussion and everyone just cools down. After this, there would be a time (i.e., 4–7 days) for open discussion. If this does not work, then there might be the option to bring in a third-party mediator (which the parties agree to and usually split the cost of). If the dispute is still not resolved, they might continue to arbitration or negotiation and so on. In most cases, disputes are resolved after the cool-down time period.

Gross farm revenue–sharing agreement or joint venture

Under this type of agreement, sometimes referred to as a "joint venture," two or more parties share the use of their farming assets, labour and management. The parties to this agreement do not want to be considered partners, and there is no joint business enterprise that owns assets. Rather, each party owns his or her assets as an individual, outside of the agreement. For further information on joint ventures, see the OMAFRA Factsheet *Farm Business Joint Ventures*.

Partnership and shareholder agreements

The partners of a partnership or the shareholders of a corporation should develop an appropriate set of rules for the future of the business. When no written agreement exists, it is impossible to know the intent of the parties on certain ownership, tax and continuation issues. If parties come into a dispute or if one party becomes legally incompetent or dies, and some fair rules have been established previous to this, efforts can move forward under these established rules to try to resolve the situation. If no standard accepted rules have been agreed to, there may be some difficulties and delays resolving matters.

Constructing a farm family business agreement

After a family, with advice from their accounting, agricultural and legal advisors, has decided upon an appropriate form of business structure, the job is only half done. To provide ground rules for operating the business, to protect the parties involved and to provide some business stability in the face of life's misfortunes, a business agreement is essential. Families with no written agreement should develop one.

The business agreement should respect the family's philosophy on the ownership of assets and, as noted earlier, everyone's goals and objectives. Many families understand and enjoy the concept of individually owned assets. Pride of ownership provides a strength to joint relations that overcomes other shortcomings. A full partnership or full corporation that owns all of the assets should be carefully considered. Many farmers find it much easier to understand the concept of owning 10 cows, two tractors and 100 acres of land than owning a partnership interest or three common shares.

Some families have a cooperative or communal spirit. In these situations, a full partnership or corporation may be acceptable. However, no matter what, it is extremely important to document, for all partners or shareholders, just how much they own of a full partnership or corporation. Modified versions of partnerships or corporations should document what assets the partners own. It is best if the documentation is done every year.

The agreement should be comprehensive enough to suit the farm family and the business environment, but simple enough to understand.

Due to the variation in complexity of farm family operations, it is extremely important for the family and lawyer to tailor an agreement suited to the operation's level of complexity. This is a key role that the legal advisor can play in the succession planning process — drafting and reviewing farm business agreements that will be used to implement the succession plan. While much of the focus of such agreements will be around partnership agreements and shareholder agreements, they can also include the other forms of agreements discussed previously, such as employment agreements.

Legal components of farm business agreements[31]

A considerable number of legal aspects could be included in a farm business agreement. However, many farm business agreements can be divided into four components or sections:

- establishment
- governance and operations
- changes and continuity of ownership and termination
- dispute and conflict resolution mechanism/process

Establishment

It is not uncommon to have the first section and first few clauses of an agreement set out the names of the parties (and/or the name of the business) entering the agreement and the date of the agreement, or the effective date, if different from the preparation date. An agreement then usually goes on to indicate the purpose of the agreement.

The agreement may provide for the transfer of assets from the parties to a partnership or corporation, but it may be more common to have separate transfer agreements to document change of ownership and tax values. Similarly there may be transfer agreements between the individuals for assets outside of the agreement.

It is common to indicate the location of the business and the amount of money that each party is contributing. Indicate also the form of asset ownership. Parents could continue to own certain assets, children other assets and jointly own yet other assets. However, the parents and children will agree to contribute the use of their individually owned assets to the business venture. For example:

> . . . the Parents shall contribute to the partnership, the use of their land known as the East Farm, located at lots 1 and 2 in the 3rd Concession of the Township of Anywhere in the County of Somewhere consisting of 80 ha (200 acres) more or less, without the payment of any rent.

Governance and operations

The agreement is usually between proprietors in an operating agreement, partners of a partnership or shareholders of a corporation. Normally, the partnership and shareholders agreements are more sophisticated than other operating agreements. While some of the clauses are required for compliance with income tax or other laws, most are suggested as a set of fair rules relating to the operation of the business. The agreement should also address the termination of the business should the parties to the agreement be unable to agree. This may be the most important reason for an agreement. As long as the parties continue to have amiable relations and want to amend the rules, there is no problem.

This section of the agreement often contains clauses dealing with such things as:

- contributions and drawings
- administration of the farm and handling finances (i.e., banking, record-keeping, financial statements)
- delegation of duties to family members
- appointment of signing officers for banking and other financing and financial matters
- proprietary rights related to the name of the business
- any other remaining administrative matters

Changes and continuity of ownership and termination

Changes of ownership can occur under many circumstances. The most pleasant circumstances simply involve one party, usually the parent, selling his or her assets or interest in a partnership or shares in a corporation at an agreed-upon price.

This section can deal with such things as:

- important arrangements relating to the ownership of the farm business, including current ownership interests and any restrictions on the transfer of those ownership interests
- buy-sell arrangements and/or options to purchase further interests in the future. The buy-sell clause usually allows a partner to broach the subject of buying out the other partner(s). Some so-called "shotgun" buy-sell clauses may force the other partner to sell if he doesn't want to buy.
    - The option to buy or right of last refusal approach may be the most fair for the parent-child agreement. It creates an option for one party to buy from the other upon

serious illness, retirement, death, etc. In the case of death, the continuing party would likely buy from the beneficiaries of the deceased.

- valuation principles — the method of determining the agreed-upon price or valuation method/principle. One method involves the parties agreeing to transfer values each year. Another involves a calculation of book values as per the financial statements. A third involves the obtaining of a valuation by a qualified appraiser.
- death and disability provisions
- insurance

Dispute and conflict resolution mechanism/process

While many agreements refer to decisions by mutual agreement, it is a good idea to include a section describing the dispute and conflict resolution mechanism or process that will be used if it is not possible to achieve mutual agreement or when there is a dispute or conflict.

This will basically describe:

- an effective means or process of resolving conflicts between the family members, short of litigation and the court process
- a description of who or how a mediator or arbitrator will be appointed or selected to help resolve conflicts

Other common issues addressed in a farm business agreement

Other common issues addressed by clauses in an agreement include planning and retirement timelines, preparation of domestic or marriage agreements, naming a business advisor and providing for ownership transfer due to a death or a disability.

Final points on farm business agreements

In conclusion, a farm business agreement should:

- provide the ground rules for operating the business
- protect the parties involved
- provide some business stability in the face of life's misfortunes

J. Financing options and purchasing arrangements

Most family transfers involve some form of sale. The financing requirements for these sales may vary according to the price, type of asset and the financial condition of the family members.

For the most part, financing options and purchasing arrangements can be divided into two categories: traditional and non-traditional options.

Traditional financing and purchasing options

Traditional financing and purchasing options or methods include institutional loans and mortgages, family sale with mortgage back, private loans and mortgages, agreement for sale, promissory notes, an open account or bill of sale, option to purchase and buy-sell agreement.

Institutional loans and mortgages

Outright sales are sometimes preferred by the parent when commercial credit is readily available. Commercial credit includes loans and mortgages from lenders of all types. There are numerous sources of this type of debt capital, such as banks, credit unions and other farm credit sources.

Advantages to traditional institutional loans and mortgages include:

- The successor can buy the farm at a reasonable price without the uncertainty of a will.
- The successor gains title to the assets in an outright sale.
- The successor remains independent by owing money to a financial institution rather than family members.
- Current owners receive the money immediately for retirement or other uses.

Disadvantages and matters to consider include:

- The farming successor is indebted to an objective third party (a financial institution), which may not provide the same flexibility in repayment or offer as favourable terms as the current owners might.
- If the farming successor runs into financial hardship, renegotiation may be more difficult than if the debt were held by the parents.
- In the case of extreme financial hardship, the financial institution could foreclose on the farming successor and could force the sale of the operation.

Family sale with mortgage back

Some farm transfers involve the current owners holding a mortgage on the property when a successor cannot raise or borrow the funds. This mortgage may be in addition to an institutional loan or mortgage.

Advantages to a family sale with a mortgage back include:

- Title to the property is given to the family successor, and the current owner receives security in the form of a mortgage registered against the title.
- Both interest rates and principal payments can be flexible. For example:
- Principal payments are not tax deductible to the successor and are tax-free income to the current owner.
- Interest is taxable income to the current owner but is a deductible expense for the successor.
- A combination of principal and interest is normally used in the repayment schedule to benefit both owners and successors.
- Payments of the farming successor often allow the non-farming family members to be provided for through the will of the owners.
- Debt can be forgiven in the will.
- Any non-deferred capital gains can be spread over several years if properly designed.

Disadvantages and considerations include:

- If current owners need money or retirement funds immediately, the income from the mortgage may not be enough.
- A first mortgage provides the current owners with some security in the event of the farm business failing. This is not as true if a second mortgage is held, and there is substantial debt.
- In some family situations, the successor may prefer to deal with a financial institution. This could be where there are tensions in the relationship between the owner and the successor or where the owner has some concerns about the successor's ability to make timely payments.
- Other non-farming family members may view the mortgage as favoritism or be unclear as to how it affects them.

It is advisable to ensure that the mortgage held by family members is drawn up with clear terms and that clear communication takes place between the successor and the owner as to the timing of payments and the expectations in the event of the owner's death.

Private loans and mortgages

Sometimes, outside private financing, beyond the owners and institutions, may be an option when either commercial credit is not available or favourable borrowing rates are available. There are some individuals willing to take a calculated risk who lend money as a way to help others or as a way to earn a higher than institutional interest rate. Sometimes these individuals are other family members (uncles, cousins, etc.), other farmers, other neighbours, others in the community or just someone interested in the business. No matter what, the loan or mortgage's terms, conditions, interest rates, length, payment schedules, re-negotiation terms, method of payment calculations, the handling of lump sum payments and other items must be clear and understood by all parties.

Many of the same advantages and disadvantages of the family mortgage and institutional mortgage are blended under this option.

Agreement for sale

Under an agreement for sale, the farming successor receives possession of the farm but the current owner retains title until payment is completed.

The main advantage of this purchasing arrangement is that in retaining title, the owners have stronger security and can be more forceful in demanding payments. However, considerations include:

- An agreement for sale is not normally used with a stranger but may be if a low down payment is accepted.
- While the vendor is accepting a low down payment, the buyer is also taking a risk because it is easier for the vendor to foreclose with an agreement for sale than with a mortgage.

Promissory notes

Another purchasing option is promissory notes. They are a traditional method of transferring machinery, livestock, quota, crops and supplies, and, to a lesser extent, land and buildings to the successor generation.

Advantages to promissory notes include:

- Quota can be sold using either a note or a mortgage.
- Owners can use a note for income averaging. As the successor makes payments on the note, the successor records it as a current expense, and the owner has current income.

Disadvantages and other considerations include:

- Quota itself cannot be taken as security. Instead, a "letter of direction" is registered with the appropriate marketing board. The funds from the sale of quota are then directed to the secured party, with the residual going to the vendor.
- Promissory notes should be structured properly and used with care. For cash-basis farmers, the timing of payments for inventories can make a significant impact on their tax position; notes can be used to spread income. It is best to investigate this fully with a financial advisor.
- There must be an exchange of property for the promissory note in order to average income. If the note is given at a later date to secure a bill of sale or invoice, it may be considered payment with no averaging allowed.

An open account or bill of sale

A bill of sale, open account or unpaid invoice can work in a similar manner to a promissory note for averaging income.

Inventory is often sold on account with an unpaid invoice that is paid off over a number of years to reduce the tax liability to the owner, and to spread the purchase over a number of years.

The main consideration of using this purchasing arrangement is that the invoice must be prepared on the date the purchase occurs, or the Canada Revenue Agency (CRA) could deem that all of the sale proceeds are taxable to the seller, regardless of when payment is received.

Option to purchase

The option to purchase is often included in a will, lease or business agreement when a parent insists on being the sole owner until death. The option to purchase must be made within 36 months of death.

Advantages of an option to purchase include:

- The property can be purchased at an agreed-upon or formula price. This might take the form of a first and last right of refusal, where the successor has the first right to purchase the asset if the owner wants to sell as well as the last right to match a buyer's offer.
- The terms of the option to purchase may provide for reasonable repayment terms.
- Life insurance can be used to finance the option to purchase.

Buy-sell agreement

A buy-sell agreement is typically used when parties to an agreement are certain the farm should be kept intact.

The main advantages are:

- The surviving party must purchase the deceased party's interest.
- Life insurance can be used to finance the buy-sell agreement.

A major consideration is the financial burden placed on the surviving party unless there are favourable terms.

Non-traditional financing and purchasing options

Since the capital requirements of primary agriculture have grown, new methods of raising capital will be discussed. Non-traditional financing and purchasing options include venture or investor capital and consideration of leasing large capital items.

Venture or investor (equity) capital

Although venture capital (sometimes referred to as investor or equity capital) has been used in many industries to finance growth, primary agriculture as a whole is simply not ready for venture capital in its current form.

A major consideration of using venture capital is that the farm business must be prepared to satisfy the requirements of the investor. There are at least four barriers that prevent primary agricultural business from attracting equity capital:

- Investors prefer a management team to a one-person operation or want to be involved in the business themselves.
- Agricultural businesses do not generally generate the required growth or return on investment needed by venture capitalists.
- Accounting systems are not set up to value the business growth.
- Farmers are reluctant to give up some of the control.

Leasing large capital items

Leasing is an alternative to incurring additional debt.

Advantages of leasing include:

- The amount of equity required up-front for a capital purchase is reduced.
- Options to purchase are sometimes included in the leasing agreement.
- Leasing companies are now more willing to lease capital items, such as non-permanent

buildings. Traditionally, just machinery was leased, now greenhouses can be leased.

A few cautions about leasing:

- Be sure to fully understand how your lease payments will be calculated.
- Confirm your interest rates and residual values, which are used to calculate the lease payments.
- While leasing may be good for an expanding operation, it is not as applicable for used items.

Other financing options

Sweat equity

Simply put, sweat equity is where family members works their way into the ownership of the business by receiving a lower-than-average wage and contributing to the growth of the business, under the assumption that, at some future point, this contribution will be recognized and earn them part ownership in the business.

Advantages to this approach include:

- Low risk for both generations. The younger generation gets to see if they like the business, the older generation gets to see if a more permanent relationship will work.
- Working their way into the business can be the best option for successors who do not have a credit rating.

A few considerations:

- The period of working without ownership should be defined; typically, three to five years is reasonable.
- "Sweat equity" is difficult to value. How much has the individual contributed to the business? For the current owners, who are intent on transferring the business, this is a minor point. However, once a successor has worked longer than five years, they have the right to know some specific ownership timelines, or be paid for their contribution to the business.
- Other non-farming family members do not always recognize the value of the "sweat equity," especially as they get farther from the farming business.
- It is a good method as long as both parties discuss and agree on timeframes.

Registered security positions

A security position on a loan or mortgage is basically a lien. The individual or entity registering the security position is legally recognized as a creditor. This is particularly important for parents when taking back a loan or mortgage on a farm asset from a family member (i.e., a farming child). It protects family members in the event of a dispute within the family, and the registered security prevents any other creditor from taking a priority position that ranks ahead of family debt, unless the family lender provides consent.

K. Insurance and succession planning[32]

Insurance is one of many tools in the toolkit of a professional advisor working with a farm family on a succession plan. It may be part of a solution in some situations but it must fit within the context of an integrated plan.

Insurance can be used to fund a transfer after death, settle an estate, pay down taxes or loans, or address partnership interest or corporation shareholder situations. It is a tool to help protect the business and help maintain its viability.

Consider the viability of the business and the risk management strategies being employed to maintain its viability, including these three Ds of farm business management — death, disability and disaster.

Answering these fundamental questions can be a good starting point in planning the ideal amount and type of insurance coverage.

- What are the chances of a loss that could adversely affect the family and business?
- What would be the financial consequences of this?
- How much will the insurance cost? How much can be afforded?
- Could the money be better spent somewhere other than on insurance?

Business insurance

From a succession perspective, it is important to preserve and protect the assets required to operate a viable business. There are at least three components to consider:

Farm assets and owner liability

Farm families should work closely with their insurance advisor to ensure they have sufficient coverage on asset loss to perils such as wind, fire, inventory damage or death, machinery and equipment, etc. Higher deductibles make higher coverage more affordable. Determine what perils are not covered (e.g., collapse from snow or ice). If standard liability is not enough for a larger business, consider an umbrella policy to increase coverage.

Pollution/environmental liability coverage

Some basic farm policies have no coverage for pollution/environmental situations; others have capped amounts. Ensure that sufficient coverage is in place to protect the business from claims from other citizens and the Ministry of the Environment, Conservation and Parks for clean-up costs. A separate policy is required to cover spills on properties that are owned, leased or otherwise controlled by the farmer.

Business risk management-type programs

Business risk management-type programs such as crop insurance (also referred to as production insurance) and income stabilization programs can provide significant coverage in case of disaster. Consider enrolling in them, if you are not already.

Life insurance[33]

Life insurance can be included in the succession plan to help with:

- credit coverage — loan or mortgage protection
- funding of buy-sell agreements
- payment of taxes triggered by death and other estate liquidity or liability issues
- estate equalization (allowing the business to operate intact and addressing "fair and equitable" treatment of others)

Last to die insurance

It is fairly common for farming spouses to take out "last-to-die insurance" to provide estate liquidity when the second spouse passes away. The premiums are usually cheaper than those of a single operator because the other spouse is usually of the opposite sex and may be younger.

Types of life insurance

There are basically three types of life insurance: whole life, term and universal life. Each insurance company will have its own unique formats for each of these types of life insurance. There are advantages and disadvantages to each type, which should be discussed in detail with the farm business's insurance advisor.

Other types of insurance

Other types of insurance, such as critical illness insurance, disability insurance and business overhead insurance (BOI), can function as a piece of the risk management strategy and as a way to protect the viability of the transfer against certain unforeseen events during the actual planning and implementation.

Business overhead insurance (BOI) can be purchased in addition to or in place of, disability insurance. It pays for the overhead expenses of a business that is affected by the operator's disability.

BOI can be important in farm business succession plans. If the successor becomes disabled, the retired owner may be forced to take back the business in order to protect retirement income. With BOI, both generations have time to look at all their options and make good long-term decisions.

Final points on insurance considerations

Determining the need for insurance can be challenging. Nevertheless, such determination is an important aspect of farm and family management. Adequate insurance coverage can be part of the protection component of farm succession planning.

L. Preserving the value of the estate

In addition to making arrangements for legal wills, Power of Attorney and insurance, farmers can employ some techniques for preserving the value of the estate as it is being passed on.

"The taxes payable upon death could be large. If proper planning for such taxes is not complete, a portion of the estate (including farm assets) may need to be sold to raise the funds needed to pay these taxes. Different techniques are available to effectively cap the taxes payable upon death. By doing this, the future tax liability is fixed and can be planned for, so there are no unpleasant surprises."[34]

Estate freeze

"An estate freeze is one technique that can be employed in a family farm corporate setting. This mechanism 'freezes' the value of shares of a corporation at a specific level. Any growth in value subsequent to the freeze accrues to others (usually the children) who ultimately pay the tax on the increase in value.

"The general pattern of an estate freeze is that the current value of the common shares in the farm corporation is converted into preferred shares. These preferred shares are redeemable at a fixed value in the future. This allows common or growth shares in the farm corporation to be purchased by the children for a nominal amount. These common shares then participate in the future growth in value of the company. The share structure can be organized so that the older generation may still retain voting control over the company if desired.

"The key to an estate freeze is that the farm business must be operating as an incorporated company. Determining if an estate freeze is appropriate requires a careful examination of the specific situation. The professional advisors should help the family (particularly the older generation) consider all the relevant factors when making their decision."[35]

Trusts

A trust is another optional tool to consider as part of one's estate plan. It can also be incorporated as a mechanism in succession planning. However, trusts can be complex and have certain maintenance requirements. Therefore, the use of a trust needs to be carefully considered and discussed thoroughly with a qualified advisor.

"There are numerous 'types' of trusts. However, generally there are two categories. The first category is created through the will and does not come into existence until one's death. This category of trusts is called 'testamentary trusts.' The other category is created during one's lifetime and is called 'inter vivos trusts.'

The basic objective of using an inter vivos trust in an estate is to allow income from certain assets to accrue to specific individuals without transferring control of those assets to the beneficiaries. A trust used in this situation gives the parents greater control over the assets in the trust.

A testamentary trust is created through the will and provides a mechanism to ensure an orderly disposition of assets. Such trusts are often created to provide the surviving spouse with the income generated by the trust assets, without acquiring ownership of the assets themselves."[36]

As noted above, a trust can be an alternative tool in a succession plan. It could be set up to achieve such objectives as:

- to provide for a spouse or disabled child
- to provide for minor children or delay the transfer of assets to children until they reach a more mature age
- to ensure farm assets go to children of a first marriage
- to provide some creditor proofing while alive through an inter vivos trust

Trusts can also allow the spreading of capital gains to children, which enables the capital gain exemption to be multiplied, since the exemption can be used by the beneficiaries if they are eligible (children generally are). Trusts that are set up by a will have graduated tax rates similar to an individual's, which reduces the tax that a surviving spouse would pay.

Trusts are governed by specific laws and should only be set up with professional accounting, tax and legal advice.

Step 2. Generate Options

The information gathered under Succession Preparedness and Step 1 contributes an essential piece in the succession plan development process. Having a general understanding and an appreciation of this information leads right into Step 2, where various options are generated.

Assemble a professional advisory team

Planning ahead is the only way for the business to increase its odds of survival. As can already be seen from the discussion so far, succession planning can seem to be fairly complex and intertwined. While the process may seem overwhelming, as a whole, viewing the process in comprehensible, workable pieces can really help to make it more manageable. Farm families and business operators should realize they do not need to face this subject alone; there is a variety of technical expertise available through outside business advisors and industry service providers.

At this point, it may be a good idea to identify a team of outside advisors. While farm business families and operators sometimes have difficulty bringing advisors into the fold of the business for various reasons, outside advisors can bring a wealth of additional information, knowledge and suggestions to any discussion. Each advisor will play a role in the development and execution of the succession plan.

Professional advisory team members

By using a team of professional advisors, the farm family business can be guided through the succession process. This team could include an accountant, a lawyer, and a farm business advisor/succession facilitator. Other team members might include a financial planner, a financial institution/credit advisor (lender/banker), an insurance specialist and of course, the farm family (the major stakeholder).

Initially, this team of advisors can help the farm family to:

- analyze financial viability and profitability of the farm business (mostly the business advisor)
- develop options and steps to address any profitability issues arising from the financial review (if applicable)—mostly the business advisor
- identify various potential options to consider during Step 2
- identify and review any additional specific technical information

The advisory team will need to work together to ensure the family and business requirements are met in a cost effective and fair manner. No matter what, each member of the advisory team needs to understand the overall goals and objectives of the family and for the business.

Professional advisory team member roles

At different stages in the process, professional advisory team members will play different roles. For example:

An ***accountant*** can:

- identify and provide advice on taxation considerations and strategies to give the best results for both short-term and long-term goals
- help develop business structures and time horizons, and investigate the viability of expansion and income requirements as well as review agreements from a tax perspective

A ***lawyer*** can:

update wills and Powers of Attorney

provide advice on business structures, purchases, sales and leases

create and review agreements and documentation of the above

A ***financial planner*** can:

- help develop funding strategies
- look at risk management
- develop a financial plan for both the current owner(s) and the successors
- determine income mechanisms
- assist in income needs assessment and help identify some possible solutions

A ***financial institution advisor*** (lender/banker) can:

- provide information on various financing options and consideration
- generate various lending scenarios and their related benefits and costs
- outline the bank's requirements, terms and conditions for loans and mortgages that might be used to facilitate the eventual farm transfer

A ***business advisor/succession facilitator*** can:

- help get the process started and provide unbiased guidance in the succession process
- help clarify and articulate the goals and expectations of every family member, which may reveal personality issues, deep-rooted communication problems and similar issues that may relate to sibling rivalry, lack of parental respect, etc. Sometimes the family can work it out without the help of the advisor/coach.
- facilitate discussion to help the process move forward - the advisor may need to have enough financial analysis skills to help the family see the viability of the business and determine the feasibility of alternative options.
- chair family business meetings to achieve progress along with possibly chairing meetings with other professionals.

The ***farm family (the major stakeholder)*** will:

- need to be a major part of the process (involvement is essential) and understand what is happening
- need to be part of all meetings where alternatives are being discussed
- make decisions, after family discussion, on the preferred options
- be in attendance at meetings where the advisors get together to discuss their situation
- drive, be in control, and take ownership of the process because it is the family's farm succession plan

Generate options

The farm family, possibly in collaboration with their team of advisors, should now generate a broad list of options addressing the succession planning issues discussed in Step 1, including:

- ownership transfer considerations — sale/purchase, gifts, bequests, rent, etc.

- financing options (both internal and external)
- business structures (i.e., proprietorship, partnership, corporation, etc.)
- legal considerations (e.g., will, power of attorney, etc.); inclusion of dispute resolution mechanisms in business agreements
- tax strategies and implications and so on.

Investigate different "what if" scenarios and develop contingencies to address such things as disagreement, disaster, death, disability and divorce. Flexibility is the key. A good facilitator (i.e., a succession coach) can guide the family through reviewing the various options along with providing some helpful hints.

If you have identified any missing information, return briefly to Step 1 to fill in the missing pieces.

Last points on Step 2

Once the farm family has a range of options to consider, it is time to move on to *Step 3. Make preliminary decisions.*

Step 3. Make Preliminary Decisions

At this step, the family needs to make preliminary decisions on the direction of the plan and start to focus its efforts based upon individual, family, and business preferences, objectives, goals and expectations. The team of professional advisors can provide input, comments and suggestions regarding various options and decisions.

Specifically, the family will:

- review the options developed in Step 2 and compare them to individual, family and business goals and objectives
- develop strategies to overcome incompatibilities
- consult with the team of professional advisors as needed
- outline the initial overall draft plan

Here, as at the earlier stages, it may be necessary to return to Step 2 or even Step 1 if it seems that the options and/or information developed at those stages do not provide options that will meet the family's needs.

Once the family members know how they wish to proceed, what they want to achieve and a timeframe, some of the narrowed-down options must be documented in a rough draft form. Once the preliminary decisions have been made, it is time to formalize them at *Step 4. Design, develop and review.*

Step 4. Design, Develop And Review

Once the family has completed the first three steps — collect and analyze information, generate options and make preliminary decisions, it is time to develop the plan even further. Some farm families may want to go back and generate other options. The process is not necessarily linear, and family members must feel comfortable with any decisions made. This section looks at the key elements of developing the written plan.

The written plan documents the background information used and the decisions made in the planning process. It must be internally consistent and address goals and plans for all of the family members and for the business itself. It will answer such questions as:

- Who will run the farm in the future and how will he or she be trained?
- Who will own it and how will the property be transferred?
- What will the current owners do after retirement?
- Where will everyone live? And so on . . .

The written plan basically records and articulates the decisions on how the transfer of labour, management and ownership will take place and how best to achieve what family members want to have happen to the farm business.

The format of a written succession plan can take different forms.[37] However, there are some common components, including:

A. Business overview (i.e., a summary and description of the farm business)
B. Description of business and personal goals and expectations
C. Retirement plan
D. Training and development plan for successor (also referred to as the "successor development plan")
E. Farm business plan (i.e., future direction, etc.)
F. Operating plan (i.e., roles and responsibilities)
G. Management, control and labour transfer plan
H. Ownership transfer plan
I. Implementation timetable
J. Communications plan
K. Contingency plan

While not all of these components will be applicable in every succession plan at any given time, it is still worthwhile to consider each one.

Furthermore, these components may appear to be separate in the written plan, but it is important to ensure everything fits together and creates an integrated and comprehensive plan for the transfer or sale of the farm business.

The next section looks at each of these components in more detail.

A. Business overview

Similar to a business plan, it is useful to begin with an overview of the business that everyone involved understands and agrees upon.

This includes an executive summary of the overall plan, along with the action points to implement the plan. It also describes the current farm business, including relevant points such as:

- the size of the operation and its location
- what the farm produces and how much
- who is involved in the business and in what capacity (i.e., who makes which decisions)

- the type(s) of business arrangement(s) (i.e., sole proprietor, partnership, corporation, rental agreements, etc.)
- current required financing and sources, including how the funds will be used and repaid

This sets the stage for the rest of the plan; it contains enough detail to provide a clear and concise picture of the business but should not be overwhelming.

B. Description of business and personal goals and expectations

This component describes the business and personal goals and expectations of the current owner(s) and the successor generation.

As noted, discussing, clarifying, addressing and defining these goals and expectations is one of the first things that needs be dealt with. Writing everything down is secondary to reaching an understanding and agreement on certain issues. However, writing decisions down helps give everyone a reference point and ensures a clear understanding.

Once this component is completed, the rest of the process and the resulting plan should flow from it.

C. Retirement plan

The retirement plan component deals with two issues — financial and lifestyle. It outlines what is going to happen in retirement (lifestyle) and how it will be financed.

The financial component describes where the retirement money will come from (sale of the business, interest on savings, etc.), an explanation of any retirement-income strategies (RRSPs, RRIFs, annuities, CPP, OAS, etc.) and how the money will be spent.

Lifestyle considerations include desired activities for the retirees, how the retirees will be involved in the business, the living arrangements for the generations — who will live where, and so on.

D. Training and development plan for successor

It is critical to ensure that the successor generation has the necessary skills, knowledge, and capacity to successfully operate a complex farm business.

This component of the succession plan outlines these necessary skills and knowledge, including a current "skills profile" of the successor compared to a successful farm manager. A "skills profile" breaks down common farm activities and roles into the skills and skill level needed and compares them to the successor's current skills and skill level. The plan identifies any gaps and details how the successor will acquire the missing skills or increase the skill level. For example, the capital purchases activity requires research skills, financial management skills, negotiation skills and so on. If the successor lacks negotiation skills, the training and development plan outlines how to address this gap.

This action plan may include such things as additional training, responsibility sharing, job shadowing and a multitude of other learning possibilities. For example, an action plan to address the above lack of negotiation skills might include the successor being authorized to negotiate small purchases, such as farm inputs, to start, gradually increasing the authorization to larger purchases as he or she gains experience.

Part of this component is a performance review process — a tool to give the successor feedback on how his or her development is progressing. The review helps identify strengths and where improvements are needed.

The review process should be appropriate to the training and/or skills being acquired. For example, in a supervised training situation (e.g., learning to operate a specific piece of equipment), the review would be continuous (hourly or daily) with feedback. In the case of delegated decision-making authority, the review would focus on the overall situation rather than continuous monitoring.

In all cases, the current owner and the successor should meet regularly to review the successor's progress, focusing on what has worked, what has not, why, and what could be done differently. This should be a two-way discussion and a positive experience for both the owner(s) and the successor(s) — a chance to share and learn. The discussion should look at both technical production issues and management issues and responsibilities.

E. Farm business plan

The farm business plan component of the succession plan describes how the farm business will meet the needs of both the retiree(s) and the successor(s).

This includes a financial analysis of the farm business — past, present and future — to determine if the business is profitable and viable. This is critical - if the business is not currently profitable and viable, the business plan should identify strategies to make it so.

This component also includes projected financial statements and describes the future direction of the farm business (maintaining the same scale, downsizing, expansion, diversification, value-added, etc.) and how this direction will affect the business.

F. Operating plan

The operating plan outlines how to manage everyday business activities. It is divided into two main parts:

- The first part identifies the roles, responsibilities and authorities related to the day-to-day operations and how decisions are made (vote, one person, debate, etc.). This part is especially important where multiple generations (two or more) will be working together for a time period (overlapping timeframe).
- The second part outlines the plan for family business meetings to discuss the transfer process. This includes information about how the meetings will function, who will be responsible for what, where the meetings will take place and the involvement of non-farming family members.

The two parts together result in a "user's manual" for family business meetings.

G. Management, control and labour transfer plan

Related to the operating plan [F], this plan goes one step further by describing how the transfer of management, control and labour (basically decision-making and workload) to the successor will take place. It includes a timetable for the transition (linked to the implementation timetable [I] – to be discussed later).

This component should also be closely connected to the successor development plan [D] because the successor(s) must have the required skills and knowledge before full responsibility can be transitioned to them.

H. Ownership transfer plan

The ownership transfer plan outlines how the farm business is currently structured and how it will change during the transfer process (see the business overview [A]). This includes a description of the business arrangement that will be used (sole proprietorship, partnership, corporation, etc.). For example:

The farm is currently structured as a partnership with three partners. Under the plan, a corporation will be formed with three shareholders, each with an equal number of common shares. The non-real estate assets (cows, crops, supplies, machinery and quota) will be rolled into the corporation. The individuals or partners will hold the real estate outside of the corporation. The corporation will then lease this farmland from the individuals or partners.

This component also explains how the transfer of asset ownership will be handled, including a description of the transfer mechanism (purchase, gift, bequest, combination, etc.). For example,

The current owner (operating as a sole proprietor) plans to transfer the assets to the successor through the purchase/sale of individual assets (or a category of assets such as machinery and equipment) over time with a mortgage back to the current owner.

Other parts of the ownership transfer plan include:

- an explanation of the financing required, the various sources available and the preferred financing option(s)
- an inventory and valuation of assets and liabilities
- an explanation of the tax implications of the proposed transfer process along with a description of how these items will be addressed
- an explanation regarding the treatment of non-farming family members, and if applicable, an explanation regarding the treatment (if any) of farming non-family member
- an outline of the insurance requirements related to life, disability, disaster and related insurance tools
- a description of the legal agreements (employment contracts, partnership agreements, shareholder agreements, buy-sell agreements, etc.). Copies of these could be attached as appendices for reference purposes. Ensure that these legal agreements include dispute resolution mechanisms. A copy (or copies) of the legal will(s) and any prenuptial agreements could also be attached for reference.

I. Implementation timetable

The implementation timetable provides a timeline to complete key activities, complete with deadlines (what must be done first and by when). This timetable will assist with monitoring and measuring progress and help identify if adjustments or amendments are needed.

J. Communications plan

The communications plan has two basic parts:

- a description of how the family communicates about transition and succession planning (see the operating plan [F])
- a discussion of how disputes are managed and resolved

The first part of the communications plan addresses the details of the process for family communications and how decisions are made relative to the succession planning process. It outlines the basic “rules” of family meetings and discussions regarding the direction of the succession plan. The communications plan includes:

- a schedule for regular “family business” meetings

- an outline of who will participate in these family business meetings (e.g., only family members active in the farm business or all family members)
- a plan for any required separate "family" meetings involving all family members
- meeting location(s) and whether meals will be provided and by whom
- a description of meeting responsibilities and decision-making processes (who will set-up the meeting and agenda, follow-up on decisions, chair meetings, etc.) (see the operating plan [F])
- an outline of the ground rules for the discussion (e.g., everyone has a turn to talk, no interrupting, no blaming, stay focussed on the agenda item, etc.).

The second part of the communications plan discusses how disputes will be managed and resolved, including such strategies as family voting, third party mediation, etc.

K. Contingency plan

The contingency plan component outlines what will happen and who will ensure the implementation of the contingency measures in such situations as illness, death, disability, divorce, disagreement, disaster, business downturn or failure.

This includes reference to the insurance requirements and selected mechanisms (see the ownership transfer plan [H]), particularly life, disability and disaster insurance, as contingency planning and risk management tools.

Review of plan

As decisions are documented, the team of advisors should review the plan and provide detailed feedback, advice and comments.

Once this occurs, the family should conduct a review and discuss the advisory team's input. This works best if it is an open process. As necessary, the family should revisit their goals and objectives and develop new options. They may need to make modifications and/or revisions to the plan as they go forward.

Once they have worked out the plan details (perhaps with the assistance of the succession facilitator), it is time to finalize the written plan. It is a good idea to hold one final technical review of the plan by the full advisory team.

This is a complex process and may require a number of iterations before a final working plan is adopted. In the end, it will be worth the effort because consensus, leading to buy-in, is important to the success of the final plan. Family members need to feel comfortable with the decisions, even though some may not get everything they want from the plan.

When the final plan is written and all decisions documented and agreed to, it is time to move on to *Step 5. Implement, monitor and adjust.*

Step 5. Implement, Monitor And Adjust

The best-laid plan can fall apart if it is not implemented. The plan must be practical and straightforward to put into action. Providing copies of the plan to each family member may help to create an atmosphere of openness, reducing concerns and possible misunderstandings as the plan unfolds. The timetable should be followed.

As the plan is implemented, monitor its progress. If situations change and/or difficulties arise, adjust the plan as necessary. Flexibility is the key. If an element of the plan needs fine-tuning or updating, remember to review the other aspects of that element and adjust them or act upon them as necessary. *Appendix VI. Implementation Checklist,* on page 112, can be a useful resource for this step.

And finally, when the plan is complete and is being implemented, it is time to give credit where credit is due — celebrate the success and achievements.

Examples of how to celebrate the success and achievements include:

- host a succession plan signing/mortgage burning party/barbeque, etc.
- give a pat on the back and congratulations
- buy a new toy
- take a family vacation or go on a family retreat
- plant a tree
- get a family portrait done
- write the story of farm
- and the list goes on . . .

Summary

Farm succession planning is about making plans for the future. Anyone choosing a career in farming is undertaking an exciting and challenging journey in the succession planning process.

This journey involves the creation of wealth largely through management skills, the preservation of wealth through management, the appropriate use of various tools and ultimately the transfer of wealth. Meeting the challenges of succession planning positively means nothing more than guaranteeing a satisfying present through planning for the future.

Appendices

Appendix I. Assessing the situation and goals

Use the following forms to help you describe your present farm and family situation and clarify family goals. Then appraise your situation. This information will be helpful to you and your professional advisors as your plan changes in the organization and/or ownership.

Current Owners — Complete this worksheet either together with your spouse or separately, then compare answers with each other (if done separately) and with the successor generation.

1. Situation and present plans of the current owner(s)

What stage are you at in your farming career: Expansion phase? Slowing down? Ready to retire?

What would you like to see happen to your farm business in the next 5 years? What would you be willing to do to make it happen?

What off-farm investments would you like to make in the next 10 years?

Where would you like to live after the succession plan is implemented?

When were your wills and power of attorneys last updated?

What are the provisions for your spouse and dependent children?

What are the provisions for your other children?

2. Objectives: Rate each of the following objectives according to its importance to you.

	Important	Somewhat important	Not important
To provide sufficient income for me and my spouse during our lifetime.			
To make provisions for special family needs.			
To maintain management control of the business.			
To treat all children fairly.			
To reduce my labour contribution.			
To help one or more of my children get started in farming.			
To keep the farm in the family.			
To reduce my ownership of the business.			

If the last three are important to you, how much financial assistance can you provide your children?

Successor Generation — Complete this worksheet either together with your spouse, or separately and then compare answers with each other (if done separately) and with the current owners.

1. Situation and present plans of the next generation

What stage are you at in your farming career? What contributions have you been making to date?

What would you like to see happen to the farm business in the next 5 years? What would you be willing to do to make it happen?

When would you like to acquire the ownership of more farming assets?

How much financial assistance do you require from the current owners for this acquisition?

What are your housing needs over the next few years?

2. Objectives: Rate each of the following objectives according to its importance to you.

	Important	Somewhat important	Not important
To make farming my career.			
To acquire a larger share of the business.			
To assume more management responsibility.			
To gain control of the farm eventually.			

Appendix II. Assessing the compatibility of goals

Decide to talk. Set your goals, communicate and analyze. Putting your thoughts down in writing gives you two advantages:

(1) ***The ability to assess the compatibility of goals*** You will be able to sit down with the other members of your family involved in the succession plan and see if your goals are compatible.

(2) ***The ability to assess the feasibility of goals*** Then, you can determine whether or not you can do it.

Are your goals compatible?

If so, it is time to proceed with plans for shared operations and eventual transfer of ownership. In most families, the goals will not be fully compatible at first. Much open discussion and possibly compromise may be required before you can develop a plan. Schedule regular family meetings – if it took 40 years to build the farm, it will take time to plan for the future.

If a compromise cannot be found, it may be best to avoid going into business together. It may be that your succession planning will be based on the sale of the farm business outside of the family.

Don't be surprised if you discover that the goals of members of the same generation are in conflict. Each of the parents may place a different priority on preserving capital, treating all children equally and seeing the farm business carry on in the family. The successor generation may have different expectations for the development of the farm business, or for their personal lifestyles. It is better to talk about any differences now, rather than allow differences to go undiscussed until later in the development of your transfer plan. If differences are identified and discussed early, you may be prompted, as a result, to explore different options for your succession plan. It's better to find out sooner than later if your goals are incompatible. Differences will be harder to accommodate once you have made a significant commitment to a particular transfer plan.

Are your goals feasible?

The parents may quickly realize that it is impossible to attain all their goals. They may need to consider sacrificing a little capital to treat children fairly rather than equally.

The successor generation may expect to start with the parents' standard of living and have the farm business handed on as is, with little or no mortgage. This may be a false expectation. Some sacrifice is usually necessary to acquire control of any business. Respect, patience and a little formality can help everyone stay focused.

Summary

Your farm family succession plan involves financial and social adjustments for both generations. Parents will have to envision how their interests will shift as they wind down their farm involvement, and how their expenses will change as a result. Similarly, the successor generation will have to consider how their increased commitment to the farm will impact on their lifestyle, as well as their finances.

Appendix III. Record of key information and contacts

This appendix can be used as a guide for collecting and recording some of the key information, important papers (including their location) and contacts you'll need for developing a succession plan. The table below lists the forms included as well as the other critical papers that should be assembled. Be sure to update this guide regularly.

In developing farm succession plans, accurate record-keeping is critical: professional advisors require clear, accurate records to provide sound advice and to execute the plan. In the event of an emergency, this guide may be critical to the family, the lawyer or the estate trustee (executor of the will). Be sure someone knows where to find it. Consider providing other members of the farm business with a photocopy.

Forms in this appendix:	Additional papers to collect (if applicable):
• personal information • daycare/educational institutions • medical insurance • health card information and medical doctors • social insurance numbers • postal information • identification cards • credit cards • legal will information • funeral arrangements • insurance information • lenders • safety deposit box • stock brokerage firm • RRSPs/certificates/RRIFs/annuities • business arrangements • income tax and financial statements	• Power(s) of Attorney • property deeds and original farm purchase agreement (if available) • any equipment, farm, building, land lease or rental agreements and related documentation • mortgages and loan information • partnership or shareholder agreement • any other farm agreements and applicable contracts • incorporation documentation • financial statements and other finance-related records • inventory list and fair market value (FMV) valuation/appraisal • tax returns and records • employee records and agreements • production and performance records • environmental farm plans (or assessments) • nutrient management plans/strategies • bank account information and signing authorities • stock brokerage firm records • safety deposit box information • savings and off-farm investment information (other than RRSPs certificates/RRIFs/annuities) • current contact information for suppliers (feed, seed, etc.) and service providers (accountant, lawyer, financial institution representative, etc.)

PERSONAL INFORMATION

Name	
Address	
S.I.N.	Birthdate
Payroll remittance no.	HST reg. no.
Driver's licence no.	
Spouse's name	
Address	
S.I.N.	Birthdate
Payroll remittance no.	HST reg. no.
Driver's licence no.	

DAYCARE/EDUCATIONAL INSTITUTIONS

Student	
School	
Address	
Contact	Phone
Student	
School	
Address	
Contact	Phone
Student	
School	
Address	
Contact	Phone

MEDICAL INSURANCE

Insurance company	
Policy number	Phone number
Location of cards	
Location of forms	

HEALTH CARD INFORMATION AND MEDICAL DOCTORS

Name	
Health card #	Location
Doctor	
Address	
Phone	Emergency #
Name	
Health card #	Location
Doctor	
Address	
Phone	Emergency #
Name	
Health card #	Location
Doctor	
Address	
Phone	Emergency #
Name	
Health card #	Location
Doctor	
Address	
Phone	Emergency #

SOCIAL INSURANCE NUMBERS

Name	
Number	
Name	
Number	
Name	
Number	

POSTAL INFORMATION

Home delivery	
Post office box no.	Location
Location of key	

IDENTIFICATION CARDS

Cheque cashing I.D.cards	
Location	
Private health insurance	
Location	
Marriage certificate – location	
Death certificate – location	
Birth certificate – location	
Driver's licence	
Location	
Other	
Other	

CREDIT CARDS

Name of company

Card number

Secondary card holders

Company phone number

Name of company

Card number

Secondary card holders

Company phone number

Name of company

Card number

Secondary card holders

Company phone number

Name of company

Card number

Secondary card holders

Company phone number

WILL INFORMATION

Location

Executor

Law firm

Date prepared

Phone

Power of Attorney for Property

Location

Phone

Power of Attorney for Personal Care

Location

Phone

FUNERAL ARRANGEMENTS

Funeral home

Address

Phone

Prepaid

Special requests:

AUTO INSURANCE INFORMATION

Vehicle description	
Vehicle policy #	Renewal date
Company	
Agent	
Phone	
Vehicle description	
Vehicle policy #	Renewal date
Company	
Agent	
Phone	

PROPERTY INSURANCE INFORMATION

Property insurance policy #	Renewal date
Company	
Agent	
Phone	Amount

LIFE INSURANCE INFORMATION

Life insurance policy #	Renewal date
Company	
Agent	
Phone	Amount
Life insurance policy #	Renewal date
Company	
Agent	
Phone	Amount

LENDERS	
Institution	
Branch	
Account type	
Account #s	
Loans	
Online account website address	
Online account password	
Bank statement/book locations	
Loan/mortgage document locations	
Institution	
Branch	
Account type	
Account #s	
Loans	
Online account website address	
Online account password	
Bank statement/book locations	
Loan/mortgage document locations	
Institution	
Branch	
Account type	
Account #s	
Loans	
Online account website address	
Online account password	
Bank statement/book locations	
Loan/mortgage document locations	

STOCK BROKERAGE FIRM

Company	
Salesman	
Address	
Phone	
Account type	
Account #	
Securities held	

RRSPS/CERTIFICATES/RRIFS/ANNUITIES

Type	Amount
Company	
Address	
Location of papers	
Type	Amount
Company	
Address	
Location of papers	
Type	Amount
Company	
Address	
Location of papers	

BUSINESS AGREEMENTS

With whom

Type of agreement

Location of agreement

Address

Phone

With whom

Type of agreement

Location of agreement

Address

Phone

INCOME TAX AND FINANCIAL STATEMENTS

Accountant

Address

Phone

Location of income tax returns

Location of farm records

Appendix IV. Worksheets for collecting information on farm assets and liabilities

Assets

What does one own? Anything that is owned has value. Assets are generally broken down into the following categories:

- land and buildings
- equipment and machinery
- livestock/poultry/crops/farm supplies
- quota

The valuation of assets is a very significant part of a farm transfer and is always subject to debate. Since the sale will take place within the family, these assets will not be open to a public sale in which a willing buyer and a willing seller settle on a fair market value. Instead, one must develop an estimated market value.

Some ways to develop good estimates of market values:

- Land and buildings
  - Get an "expression" of opinion from a real estate agent — a formal letter for which there is a cost. Pick someone who regularly deals with property similar to yours.
  - Get an accredited appraisers report — a more detailed report usually prepared for commercial lenders in cases of dispute. These can be expensive, but appraisers often charge less if the appraisal is not used for banking purposes.
  - Review land registry records (Government of Ontario Land Registry Office). Review recent sales of similar property to compare the values recorded at registration. Interpreting this information can be tricky; ask a real estate firm or commercial lender to assist.
- Quota
  - Consult with Marketing boards, exchanges, real estate agents. The type of quota will determine the best source of information.
- Equipment and machinery
  - Get an "expression" of opinion from an equipment dealer, at public auctions or via public ads
- Livestock, grain, farm supplies
  - Consult livestock dealers and auctions, grain elevators and grain dealers, farm suppliers, marketing boards or associations, trade papers or newsletters.

Liabilities

How much do you owe? Any money you owe is considered a liability. This is generally in the form of accounts payable, outstanding loans and mortgages. You can obtain the outstanding balance owed by asking each creditor or financial institution.

If your farm has computerized farm records, use the comparable schedules provided in the software. How this information is recorded is less important than actually recording it.

Land, buildings, cash and quota **Date**

FARMLAND OWNED

		Acquired		Acres		
Parcel No.	Legal description	Year	Cost	Total	Cult.	Present market value
	Totals					

MAJOR BUILDINGS

		Acquired		
Parcel No.	Description, size, etc.	Year	Cost	Present value
		Totals		

Prior year's depreciation	This year's depreciation	Total depreciation
$	$	$

MARKETING QUOTAS				
Description	# Units	Total cost	Present value per unit	Total present value
Totals				

FARM CASH ON HAND AND IN BANK DESCRIPTION	$ AMOUNT
Cash on hand	
Cash in bank	
Short-term deposits	
Other	
Total	

PROPERTY LEASED OUT				
Description	Type and terms of lease	Expiry date	# acres	Annual Income
Totals				

PROPERTY LEASED					
Description	Landlord	Type and terms of lease	Expiry date	# acres	Annual payment
Totals					

Farm inventory

Livestock and poultry

Dairy — cows, heifers (bred, open), calves (under 6 months, heifers, bulls)

Beef — cows, heifers, bulls, feeder, steers, feeder heifers

Hogs — sows, boars, breeding gilts, feeders, weaners, nursing

Sheep, goats, poultry, other livestock

	ENDING INVENTORY DATE				BEGINNING INVENTORY (ENDING INVENTORY FROM THE PREVIOUS YEAR) DATE			
TYPE OF LIVESTOCK OR POULTRY	NO. HEAD	AVERAGE WEIGHT	AVERAGE VALUE	TOTAL VALUE	NO. HEAD	AVERAGE WEIGHT	AVERAGE VALUE	TOTAL VALUE
Breeding								
Total breeding				$				$
Market								
Total market				$				$
Total livestock				$				$

NO. BALES OF HAY	WEIGHT PER BALE	TOTAL WEIGHT
Total hay bales Weight		

FORAGE AND GRAIN STORAGE FACTS (USE FOR COMPLETION OF NEXT PAGE)					
Silo size:	Width	Length	Diameter	Depth full	Total quantity
Corn silage					
Corn silage					
Corn silage					
Total corn silage					
Haylage – high moisture grain					
Haylage – high moisture grain					
Haylage – high moisture grain					
Total haylage					
Bin size: Grain					
Grain					
Grain					
				Total grain	

Crops and Farm Supplies Inventories

INVENTORY OF HOME-GROWN CROPS	ENDING INVENTORY DATE				BEGINNING INVENTORY (ENDING INVENTORY FROM THE PREVIOUS YEAR) DATE			
Description	Quantity	Unit	Price per unit	Total value	Quantity	Unit	Price per unit	Total value
Grain corn								
Barley								
Soybeans								
Wheat								
Oats								
High-moisture corn								
Haylage								
Hay								
Straw								
Apples								
Potatoes								
Tobacco								
Investment in growing crop (winter wheat, etc.)								
			Total home-grown crops	$				$

INVENTORY OF PURCHASED FEEDS AND SUPPLIES	ENDING INVENTORY DATE				BEGINNING INVENTORY (ENDING INVENTORY FROM THE PREVIOUS YEAR) DATE			
Description	Quantity	Unit	Price per unit	Total value	Quantity	Unit	Price per unit	Total value
Complete feed								
Protein supplement								
Hay								
Grain								
Straw								
Seed and plants								
Fertilizer and lime								
Pesticides, other chemicals								
Containers and twine								
Fuel								
Investment in growing crop (winter wheat, etc.)								
Total purchased feed and supplies				$				$

Date

FIELD MACHINERY AND EQUIPMENT INVENTORY				BARN EQUIPMENT INVENTORY			
	ACQUIRED				ACQUIRED		
Description: kind, make, model etc.	Year	Cost	Present value	Description: kind, make, model etc.	Year	Cost	Present value
		Total				Total	

Prior year's depreciation	This year's depreciation	Total depreciation	Prior year's depreciation	This year's depreciation	Total depreciation
$	$	$	$	$	$

Credit information

ACCOUNTS RECEIVABLE		DATE	DATE
Owed by	Interest rate	Year-end balance	Year-beginning balance
Total accounts receivable		$	$

ACCOUNTS PAYABLE		DATE	DATE
Owed to	Interest rate	Year-end balance	Year-beginning balance
Total accounts payable		$	$

Loans, notes and mortgages

OPERATING LOANS				
Lender	Purpose/type	Authorized $ amount	Interest rate	Year-end balance
Total				$

LONG-TERM LOANS										
LENDER	PURPOSE	ORIGINAL LOAN		INTEREST RATE	REPAYMENT PERIOD	PAYMENT DUE WITHIN 12 MONTHS		ARREARS		YEAR-END BALANCE
		Year	Amount			Principal	Interest	Principal	Interest	
Totals						$	$	$	$	$

Establishing owner's equity

Use this balance sheet to summarize the information gathered on the worksheets (or your equivalent records). The balance sheet will allow you to establish the current "owner's equity" in the business. Owner's equity is the balance remaining after what is owed is subtracted from what is owned.

Farm balance sheet **Current date** **Date of previous statement**

ASSETS (AT ESTIMATED MARKET VALUE)			LIABILITIES AND OWNER'S EQUITY		
	CURRENT DATE	PREVIOUS STATEMENT		CURRENT DATE	PREVIOUS STATEMENT
Current assets			Current liabilities		
Cash on hand in bank			Accounts payable		
Short-term investments			Long-term interest arrears		
Accounts receivable			Bank operating loans (including bank overdraft)		
Market livestock			Long-term principal due within 12 months		
Home grown crops			Long-term principal arrears		
Purchased feed and supplies			Other		
Other					
Total current assets	$	$	Total current liabilities	$	$
Long-term assets			Long-term liabilities (due over 1 year)		
Breeding livestock			Long term notes, loans, mortgages etc.		
Market quota					
Field machinery					
Barn equipment					
Farm buildings					
Land					
Other					
			LESS: Principal due within 12 months	( )	( )
Total long-term assets	$	$	Total long-term liabilities	$	$
TOTAL ASSETS	$	$	TOTAL LIABILITIES	$	$
			Owner's equity	$	$
			Total liabilities and owner's equity	$	$
			% owner's equity		

CHANGE IN OWNER'S EQUITY (AT ESTIMATED MARKET VALUE)		
Ending owner's equity		
Beginning owner's equity	–	( )
Change in owner's equity	=	$

Appendix V. Retirement preparation checklists and retirement income/ expense worksheets

Preparing for a place to live:

- ❑ I've examined the housing options.
- ❑ I've thought about what my current neighbourhood will be like in 10 or 15 years.
- ❑ I've looked into the affordability of relocating to a new place.
- ❑ I've experienced living in the new location during more than one season and know I'll enjoy living there.
- ❑ I've made some friends at the new location.
- ❑ I've investigated the availability of medical care and leisure activities at the new location.

Preparing to live on retirement income:

- ❑ I/We know how much our living expenses are now.
- ❑ I/We know approximately how much it will cost to live after retirement, including inflation adjustment.
- ❑ I/We have estimated our retirement income.
- ❑ I/We have reviewed our insurance policies for our present and future needs.
- ❑ I/We have reviewed with off-farm employers all options for early retirement, continued employment and benefits.
- ❑ I/We know to apply for Canada Pensions two months before 65th birthday, at the latest.
- ❑ I/We know to apply for Old Age Security six months before 65th birthday.

Preparing legal documents:

- ❑ I/We have made certain the following documents are protected and accessible:
  - birth and marriage certificates
  - social insurance number
  - statement of assets and liabilities
  - list of bank accounts and safety deposit boxes
  - location of current will, insurance policies and annuities, deeds and leases, power of attorney documents, and burial plans
- ❑ I/We have designated a Power of Attorney for Property and a Power of Attorney for Personal Care.
- ❑ I/We have made out a will for the distribution of assets at death.
- ❑ I/We know that any new will must specifically revoke all previous wills.

Assessing lifestyle changes checklist

PERSONAL OBJECTIVES	I/WE DO NOW	WILL DO POST-RETIREMENT
Creative/self-expressive activities: e.g., creative writing, pottery, painting.		
Volunteer service: e.g., community projects or club		
Social involvement: e.g., join a club or seniors' centre		
Contemplative and spiritual: e.g., religious activities		
Stay physically active and healthy: e.g., tennis, jogging, curling		
Stay mentally alert:		

Pre/post-retirement cash flow comparison:

Income

INCOME			
❑ MONTHLY ❑ ANNUAL		BEFORE RETIREMENT	AFTER RETIREMENT
Primary earnings			
Wages and salaries			
Farm income			
Other earned income			
Part-time			
Hobby			
Consulting			
Rental income			
Pensions and annuities			
Old Age Security			
Pension:	self		
	spouse		
CPP/QPP:	self		
	spouse		
Private pension/RRSP	self		
	spouse		

INCOME			
❑ MONTHLY ❑ ANNUAL		BEFORE RETIREMENT	AFTER RETIREMENT
Annuities/RRIF	self		
	spouse		
Other: spouse's allowance			
Guaranteed income supplement			
Investment Income			
Interest:			
Savings account			
Certificate			
Canada Savings Bonds			
Other			
Dividends:			
Canadian			
Foreign			
Other investment income			
Total Income			

Pre/post-retirement cash flow comparison:

Expenses

EXPENSES		
❑ MONTHLY ❑ ANNUAL	BEFORE RETIREMENT	AFTER RETIREMENT
Essential expenses		
Shelter:		
rent or mortgage		
taxes		
utilities		
telephone		
Food (excluding dining out)		

EXPENSES		
❏ MONTHLY ❏ ANNUAL	BEFORE RETIREMENT	AFTER RETIREMENT
Clothing		
Transportation:		
gas and oil		
repairs and maintenance		
parking		
bus, cab, etc.		
insurance and registration		
Medical and dental (including all drugs)		
Payments:		
loans		
credit cards		
charge accounts		
Personal spending		
Other		
Other		
Subtotal essential expenses		
Discretionary expenses		
Entertainment (dining out, movies, theatre, cable TV)		
Education (tuition, books)		
Gifts (including charitable donations)		
Planning savings (car replacement, RRSP, home maintenance)		
Furnishings and appliances		
Other		
Other		
Subtotal discretionary expenses		
Total expenses		

Appendix VI. Implementation checklist

Succession preparedness

Effective communication, including negotiation and conflict resolution

- ❏ Family members have discussed future family involvement in the business, and the lines of communication are open.
- ❏ Family members have agreed upon a mechanism for handling and resolving any conflicts.
- ❏ Family members feel comfortable talking about farm succession and feels that negotiations are possible.

Understanding family business dynamics

- ❏ Family members have openly discussed the values (their priorities), vision, mission and goals associated with the succession plan.
- ❏ Family members have determined the most important things (values and their priority) as the starting point for the development of the farm succession plan.
- ❏ Family members accept the vision statement (based upon values and their priorities) that has been developed.
- ❏ Family members accept the mission statement that has been developed.

Establishing clear personal and business goals

- ❏ Family members have defined their personal, family and business goals.
- ❏ Family members agree to the mechanism that has been established to discuss general business and succession planning issues (i.e., family business meetings).
- ❏ Using the above mechanism, family members have had the opportunity to talk about their expectations, needs, objectives and goals for themselves and for the farm business.
- ❏ Family members have discussed the issue of fair and equitable treatment of family members (both farming and non-farming).
- ❏ Family members have discussed how decisions will be made in the future.
- ❏ Family members have assessed the compatibility of each individual's personal, family and business objectives and goals.
- ❏ Family members have developed a strategy to address any serious discrepancy or incompatibility.
- ❏ The current owner(s) has/have examined both the financial and personal aspects of retirement.

Identifying the successor

- ❏ Family members have participated in the discussion regarding who wants to be involved and potentially take over the farm business in the future.

Step 1. Collect and analyze information; investigate additional succession planning information

Become familiar with succession planning

- ❑ Family members have attended an introductory workshop or seminar.
- ❑ Family members have read succession-planning information.
- ❑ The family has started to talk about succession planning — asking questions and seeking clarification.
- ❑ The family has agreed upon an outside facilitator (i.e., someone to help guide the process).

Collect business and financial documentation

- ❑ The most current version of the following material, documents and information has been located:
  - ❑ Legal wills
  - ❑ Power(s) of Attorney
  - ❑ Property deeds and original farm purchase agreement (if available)
  - ❑ Any equipment, farm, building, land lease or rental agreements (if applicable) and related documentation
  - ❑ Mortgages and loan information, including credit card information.
  - ❑ Insurance (including comprehensive, liability, life and disability) policies
  - ❑ Partnership or shareholder agreement (if applicable)
  - ❑ Any other farm agreements and applicable contracts
  - ❑ Incorporation documentation (if applicable)
  - ❑ Financial statements and other finance-related records
  - ❑ Inventory list and fair market value (FMV) valuation/appraisal
  - ❑ Tax returns and records
  - ❑ Employee records and agreements
  - ❑ Production and performance records
  - ❑ Environmental farm plans (or assessments)
  - ❑ Nutrient management plans/strategies
  - ❑ Bank account information and signing authorities
  - ❑ Stock brokerage firm records
  - ❑ Safety deposit box information
  - ❑ Savings and off-farm investment information
  - ❑ Retirement planning and retirement savings (RRSPs, RRIFs, certificates, savings bonds, annuities)
  - ❑ Current contact information for suppliers (feed, seed, etc.) and service providers (accountant, lawyer, financial institution representative, etc.)
  - ❑ Domestic contracts (i.e., cohabitation, marriage, separation, support orders, etc.)
  - ❑ Funeral arrangements
  - ❑ Property tax notice(s)
  - ❑ Other business-related material or information

Analyze the financial viability and profitability of the farm business

- ❑ The family has considered using some type of farm business analysis or advisory service offered either through the provincial or federal government.
- ❑ Someone involved has completed a farm financial analysis (i.e., ratio analysis and benchmark comparison).
- ❑ Someone involved has determined if the business has sufficient cash flow to meet today's financial obligations.
- ❑ Someone involved has determined if the farm business is profitable and viable today.
- ❑ If it is not profitable and viable, someone has identified the changes necessary to make it so in the future.

- ❏ Someone has developed farm financial projections.
- ❏ Someone has determined if the business is profitable and viable in the future.
- ❏ If it is not profitable and viable in the future, someone has identified the necessary changes.
- ❏ Someone has developed an action plan that describes the necessary changes and how the business will move forward.
- ❏ Someone has determined additional costs of supporting another household.
- ❏ Someone has determined if the business currently generates enough income (i.e., profit) to support another household.
- ❏ Someone has ascertained whether there will be any drastic changes in family living requirements over the next while (i.e., a family member active in the business is getting married, having children, buying or building a house, etc.).

12 key considerations

- ❏ Everyone involved has reviewed and decided what to do about:
  - ❏ the continuity of the farm business
  - ❏ how to treat family members fairly
  - ❏ the retirement plan
  - ❏ financial and investment plans
  - ❏ the management and labour transfer plan (successor development plan)
  - ❏ the ownership transfer plan
  - ❏ tax considerations
  - ❏ legal considerations
  - ❏ farm business structures and agreements
  - ❏ financing options and purchasing arrangements
  - ❏ insurance and succession planning
  - ❏ preserving the value of the estate

Step 2. Generate options

- ❏ The family has identified a team of professional advisors. This team can provide helpful hints and advice related to the various options as the plan is developed. Advisory team members might include:
  - ❏ a facilitator
  - ❏ an accountant (with specialized farm tax knowledge)
  - ❏ a lawyer
  - ❏ a lender or credit advisor
  - ❏ business advisor (sometimes the facilitator but not necessarily)
  - ❏ a financial planner
  - ❏ an insurance specialist
  - ❏ and of course, the farm family members
- ❏ The family has decided whether to work through the process with a facilitator.
- ❏ The full "team" has met to discussion goals, objectives and expectations along with some options.
- ❏ The team has decided whether to use some type of farm business analysis or advisory service offered either through the provincial or federal government.
- ❏ The team has considered:
  - ❏ ownership transfer options — purchase, gifts, bequests, etc., of assets (i.e., options for ownership and use of equipment and machinery, land and buildings along with productive assets such as crops, livestock, quota)
  - ❏ financing options (both internal and external) — outright purchase with external financing, a purchase with a mortgage back, partial purchase, partial gift-partial bequest, etc.
  - ❏ business organizations/structures options — sole proprietorship, partnership, corporation, etc.
  - ❏ legal arrangements — will, Power of Attorney, etc.

- ❑ dispute resolution mechanisms for the business agreements
  - ❑ tax strategies and implications
  - ❑ retirement issues:
    - ❑ preparing for and securing retirement
    - ❑ where the money will come from
    - ❑ what activities the current owner(s) will take part in
    - ❑ if the current owner(s) will remain involved in the labour, management and ownership of the family farm business
    - ❑ where everyone will live
    - ❑ insurance needs (life, disability, critical illness, etc.)
- ❑ If two generations have decided to continue working together, they have agreed upon:
  - ❑ division of labour, management, roles and responsibilities
  - ❑ how the successor's skills and knowledge will be developed
  - ❑ an employment contract
  - ❑ a gross income sharing agreement
  - ❑ a net income sharing agreement
  - ❑ a rental agreement
  - ❑ other types of agreements
  - ❑ the dispute resolution mechanism in all agreements
  - ❑ fair and equitable treatment of all successors (both farming and non-farming)
  - ❑ how non-family employees will be treated and how they might be affected by the transition
- ❑ The family has developed a number of different "what if" scenarios along with contingencies to address such things as disagreement, disaster, death, disability and divorce.
- ❑ The team has recorded the options and decisions and documented their ideas.

Step 3. Make preliminary decisions

- ❑ The family has started to use the options outlined in Step 2 to make and document preliminary decisions about the transfer of ownership, labour and management, and control and retirement.
- ❑ Someone has developed a rough draft of the preliminary decisions and plan.

Step 4. Design, develop and review

- ❑ Is the current legal will up-to-date, including allowances for foreseeable major changes (marriages, births, etc.)?
  - ❑ No: The currrent owners are deciding how to update it.
  - ❑ No: The appointment with the lawyer to update it has been made.
  - ❑ Yes
- ❑ Is the Power of Attorney current and up to date?
  - ❑ No: The current owners are deciding how to update it.
  - ❑ No: The appointment with the lawyer to update it has been made.
  - ❑ Yes
- ❑ The family has written down draft ideas and plans that incorporate the preliminary decisions made in Step 3.
- ❑ These ideas and plans describe how best to achieve what the family wants to happen to both the farm business and the estate.
- ❑ The team has determined who will develop and prepare the initial written draft of the plan, i.e., a family member, facilitator, advisor consultant (it might be a consultant under the Specialized Business Planning Services), accountant, lawyer, etc.
- ❑ The plan is drafted and incorporates:
  - ❑ a description of the personal and business goals and expectations of family members
  - ❑ a retirement plan, a training and development plan for the successor(s)

- ❑ a farm business action plan (future directions, etc.)
- ❑ an operating plan (roles and responsibilities)
- ❑ a plan for the transfer of management, control and labour
- ❑ a plan for the transfer of ownership
- ❑ a communication plan
- ❑ a contingency plan
- ❑ an implementation timetable

❑ The family farm management team (farming family members) has reviewed the draft plan.

❑ The various advisors' ideas and advice have been incorporated into the plans.

❑ The plan meets the objectives, goals and expectations of the family members active on the farm management team.

❑ The team has identified changes that will address any concerns and issues raised.

❑ The family members (farm and non-farm) have reviewed the plan and answered such questions as:

- ❑ Does the plan meet everyone's objectives, goals, needs and expectations?
- ❑ If not, what changes are needed to address these concerns?

❑ The plan has been revised based upon this feedback.

❑ The family farm management team met with all advisors as a group to review and discuss the plan, to help ensure that the plan addresses most issues and the components are well integrated and work together. Each advisor played a role as follows:

- ❑ The accountant provided advice on the tax implications of alternative strategies and made suggestions on how best to handle specific transactions.
- ❑ The lawyer reviewed and gave advice on the legal ramification of various agreements, ensuring the process follows legal rules and regulations.
- ❑ The lender provided financing options for the transfer of assets.
- ❑ The financial planner helped with planning both personal and business savings and investment strategies, as well as addressing retirement savings issues.
- ❑ The insurance specialist vetted the life, disability and other insurance tools that are part of the overall plan.
- ❑ The business advisor and/or facilitator (could be the same person) looked at the strategies and advice from the other professionals and provided clarification, if needed.

❑ The team has reviewed and revised all parts as necessary.

❑ Family members (including farming successors and other non-farming family members) have had a chance for a final review and comments.

❑ It has been an open process.

Step 5. Implement, monitor and adjust

❏ Someone has distributed copies of the plan's timetable to family members.
❏ The plan is being implemented.

What is done?

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What still needs to be done?

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❏ The family is following the implementation timetable.
❏ The family has set a timeline to review the plan and make any necessary adjustments.
❏ The family has celebrated.

Note:

Make sure that your written succession plan and the information contained within it (e.g., financial information, passwords, etc.) are kept in a safe and secure place. It is important that someone other then yourself knows how and where to access it.

End Notes

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Notes

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