ESS-511

ESTATE PLANNING CONSIDERATIONS

For

Ohio Families

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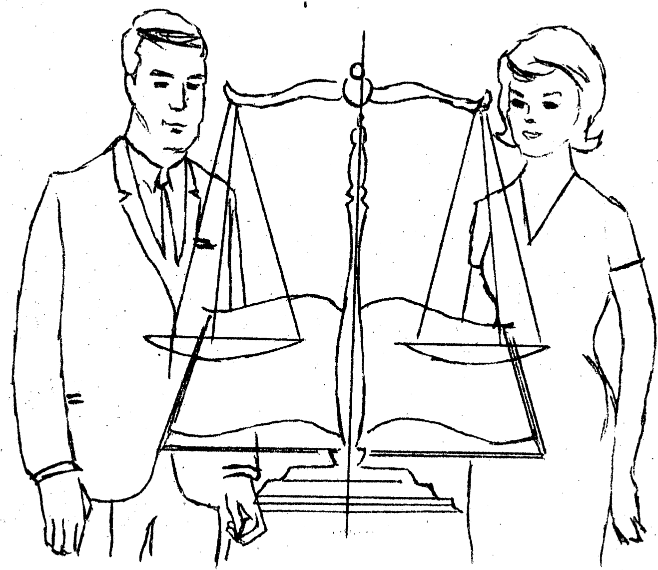
Wills
Taxes
Gifts
Joint Tenancy
Costs
Annuities
Sale Contracts



Insurance
Trusts
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Corporation
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ESTATE PLANNING CONSIDERATIONS

Increased interest on the part of Ohio families in estate planning and inter-generation property transfer has prompted the re-writing and up-dating of information on this subject. This is a very complex area requiring the application of knowledge in Federal and Ohio estate taxation, wills, insurance, forms of business organization, trusts, ways property is held, etc.

Estate settlement costs can amount to large sums. Obviously, this publication is not intended to serve as legal counsel. Rather, its purpose is to assist you in thinking objectively about the economic consequences of the alternative possibilities for handling your property as you carry on your business and make plans for property transfer.

People spend a lifetime accumulating an estate, but are often "too busy" to spend a few hours planning for its conservation and orderly transfer for maximum satisfaction for the parents and family. "An ounce of prevention is worth a pound of cure." A few hours planning now may save your family thousands of dollars that could otherwise be wasted in extra settlement costs.

. WHAT WOULD HAPPEN IF YOUR ESTATE HAD TO BE SETTLED TOMORROW?

. WOULD YOUR WIFE AND CHILDREN BE TAKEN CARE OF? (Maintain similar standard of living and insure an adequate education of the children)

. WHO WOULD RECEIVE YOUR PROPERTY IF YOUR WIFE REMARRIED; YOUR CHILDREN; HER SECOND HUSBAND, OR BUSINESS PARTNER?

. WILL YOUR PLAN BE FOLLOWED OR THE PLAN PROVIDED BY OHIO LAW?

These questions and others can be specifically answered in your estate plan. Death is unpleasant to talk about and we tend to shun or assume we will live forever, but it is inevitable. You will rest easier and your family will benefit greatly by you taking time to develop an estate plan.

WHO NEEDS AN ESTATE PLAN? Every property owner young and old needs an estate plan. It will insure the economic and legal consequences you desire.

What Is Estate Planning?

Estate planning is providing for the desired economic and legal consequences in the accumulating, conserving and distribution of your property. It is the process of arranging for the well being of your family and the use of your property to accomplish your objectives while you are living and particularly in the event of your death. It is the choosing among many alternatives that are available to property owners, so your income security can be preserved and so that your heirs receive the residual with the minimum of tax liability and other settlement costs.

It involves: property owned; the way property is held; life insurance programs; social security provisions; other retirement programs; concern for your children's future; the various objectives which a husband and wife may have in mind; as well as many other considerations.

Not A Do-It-Yourself Job

Each individual and or family has problems and differences peculiar to their situation; so there is no simple prescription or plan of attack. Anyone interested in developing an estate plan should seek the counsel of an attorney, trust officer of a bank, insurance representative, or someone skilled in estate planning. Your extension agent and/or area or staff farm management staff may also be able to make suggestions.

An attorney's assistance is essential in finalizing your plans.

Develop a Plan for Your Situation

Your plan needs to be tailored to your resources and to your family needs. Unfortunately, many families cannot come to grips with this problem because they either are not aware of the present day cost of no planning, afraid of what they think is a complex subject, or wary of outsiders who seek to help develop a plan.

Actually you are unconsciously developing parts of an estate plan every time you acquire property, decide how the title will be held, purchase insurance, etc.

A plan does exist for distribution of your property at death. In case you do nothing the state of Ohio has a plan for property that is subject to probate. The Ohio Law of Descent and Distribution will be followed if you do not have a "will" and other arrangements.

Estate Planning Objectives

The sad and costly experience of many families without estate plans testify to the need for inter-generation property planning. A good place to start is to outline some general objectives. Common examples:

1. To provide adequately for you and your spouse during retirement years.

2. To maximize total family satisfaction.

3. To treat all children equitably not necessarily equally.

4. To maintain farm or business as an efficient and functioning unit.

5. To minimize estate settlement (estate taxes, legal fees, etc.) and maximize residual that can be distributed.

6. To provide liquidity.

To provide income security for the parents is the primary objective. For many years we have experienced a rising cost of living, so it is difficult to determine how much it will take to live in a fashion that you are accustom. All sources of income should be considered including social security and other retirement plans plus investment programs. Selling a property over several years to a member of a family or non-relative is being used in some cases to produce an income flow.

Total family satisfaction can frequently be increased by distributing some of the assets not needed by parents for income security while they are alive. This helps to meet some of the stress of getting grandchildren through technical school, for college training, or other needs.

Some children may have been given additional help in obtaining an education. On the other hand, one or more may have stayed on the farm or in the business to help it succeed. Therefore, an equal distribution may not be as fair as one where parents reward a daughter or son who have cared for them or worked in the family business. Parents may want to recognize currently the labor and capital contributions of children who are associated with the business. For example, if a son's payment on a silo or barn built on the parents farm goes unrecognized the uncertainty of ownership may create problems for him as to his rights on the death of his parents.

If heirs outside the farm business become eligible for part of the wealth at death, withdrawal of that capital may adversely affect the continuation of the business unless the transfer has been carefully planned. Income tax management over time could have been excellent, but this success can be very disappointing unless estate tax management and other settlement costs are not considered while you are alive.

Availability of cash funds at death to meet the estate settlement costs to prevent the sale of property is often overlooked. It is an additional cost of settlement to have to sell property at estate settlement time plus the fact it often does not sell for the top price. Insurance, saving accounts, stocks, bonds, etc. can be a part of your clearance fund or liquidity reserve.

Liquidity

Many times real estate make up the bulk of an estate. At the time of death if there are debts and sizeable amounts of estate taxes to be paid how does the executor get the money? He may have to sell the farm or a part of it. So the estate plan needs to recognize these possible needs for cash--the needs to have some degree of liquidity in an estate. Things easily converted into cash such as savings accounts, stocks and bonds, grain and livestock, and life insurance provide liquid assets to meet current obligations and taxes.

Without cash or things easily converted into cash the executor may find it necessary to sell real estate to meet death dues. If one goal in estate building is to leave a farm intact as a going concern to the next generation then consideration has to be given to also including types of assets that will provide enough cash to pay the death dues. Sometimes insurance can meet these needs.

Some Balance Between Fixed - and Variable - Dollar Assets in an Estate

Farm families set their sites on owning land. And they like it best when it is mortgage-free. They would rather not be in debt. And in their goal to accumulate wealth, to build an estate, they typically acquire more land when possible--the more the better.

Some non-farm families take the same attitude about their businesses.

Having all of ones estate in land or a store or a factory can present problems when estate taxes have to be paid.

Some persons diversify their investments trying to achieve some balance. Over time we have observed periods of high prices and low prices, depressions, recessions, inflation, deflations, booming business and some bankruptcies. These different business conditions affect various kinds of investment in different ways. An investment of $10,000 in a savings account, government bank, life insurance or a mortgage earns interest and at the end of 10 years will return $10,000. This is a fixed-dollar type of investment.

While $10,000 invested in real estate, common stock, a franchise, or an oil well may bring in a higher or lower annual return and 10 years hence may be worth much more or much less than $10,000. Usually one expects higher returns but must be recognized that there also are higher risks. The value of the common stock (or other variable-priced asset) is largely determined by how much the company is earning.

When we experience periods of inflation, stock earnings and stock prices usually go up so even though an auto costs more during times of inflation, the savings of an earlier period invested in a variable-price asset is also worth more, thus retaining about the same purchasing power as it did when saved.

To have ones wealth all in fixed-dollar assets is bad in times of inflation because the $10,000 returned when prices are 3 times as high results in being able to only buy 1/3 as much food, clothing, services or health care that it would have been commanded when the money was saved.

If we knew for sure what the economic climate would be when we wanted to disinvest we could chose more wisely between fixed-dollar and variable-dollar forms of wealth. So in order to be safe we usually develop some balance between the two types as we plan our estates.

Different Periods of Time Property is Transferred

1. During life by gift and or sale

2. After death by way of

   a. A "will" and other plans
   b. The State Law of Decent and Distribution

Each estate is different, thus property is transferred in one or more of the above time periods. The adjusted cost basis of the property in the hands of the original owner as well as in hands of the receiver is an important consideration. The following table is a brief outline of the adjusted cost basis and type of tax required by methods of transfer of property.

ADJUSTED COST BASIS OF PROPERTY AND TAX REQUIRED
ACCORDING TO METHOD OF TRANSFER

METHOD OF TRANSFER	ORIGINAL OWNER'S COST BASIS	NEW OWNER'S COST-BASIS	TAX REQUIRED
SALE	ORIGINAL COST (PLUS) IMPROVEMENTS (MINUS) DEPRECIATION	SALE PRICE	INCOME TAX ON GAIN FROM ADJ. COST BASIS TO SALE PRICE
GIFT	SAME AS SALE	SAME AS ORIGINAL OWNER'S COST-BASIS	GIFT TAX BASED ON PRESENT MARKET VALUE LESS GIFT EXEMPTIONS
INHERITANCE	NOT NECESSARY	APPRAISED VALUE IN THE ESTATE	ESTATE TAX BASED ON APPRAISE VALUE OF ESTATE PLUS INCOME TAX IN SOME CASES

Different Aspects of the Transfer of the Farm Business

A. Kinds of Property and Ways of Owning Property

"Property is the right to possess, enjoy, and dispose of land and other things." Property rights are protected by the government through laws concerning different kinds of property and types of ownership. Property is divided into two distinct classes: Real and Personal.

1. Real Property
   Real property is land and things that are attached to the land--things that are not usually or customarily taken away when a person moves. They are immovable possessions. Examples: Land, trees, fences, buildings, furnaces, and fixtures built into and attached to the house or building.

   Growing crops may be realty by the above definition--but if ready for harvest, they may be personal property. When land is sold, the agreement should specify whether such crops are to pass with the land or remain the property of the seller.

2. Personal Property
   Personal property is movable possessions. It is made up of two general classes: Tangibles and Intangibles.

   a. Tangible Personal Property
      Tangible personal property includes those articles which can be seen or felt; for example, household goods, personal apparel, automobiles, livestock and farm implements.

   b. Intangible Personal Property
      Intangible personal property is the kind that cannot be seen--such as life insurance policies, bank accounts, shares of stock, negotiable notes.

3. Interest in Property
One's interest in property may vary from complete ownership to a mere temporary right of occupancy. The various legal interests in land are known as estates; for example--estate in fee simple and life estate. The nature of one's interest in property may determine what becomes of that property upon one's death.

   a. Differences between estate in fee simple and life estate
   When a person holds land in fee simple, it means that he is the absolute owner with the right of ownership during his lifetime and the right to dispose of it at death as he may wish. If he makes no disposition effective at his death, the land will descend to his heirs who will own it in fee simple.

   Life estate means what it says--that one is entitled to the use and benefits of the property for his life, but that these rights cease upon death. There are certain restrictions on a person having a life estate in land. He cannot abuse the land so as to greatly decrease its value. He can only lease to another person his interest in it, which terminates at his death.

   It is not uncommon for parents to transfer some of the family property directly to their children with the parents retaining a life estate.

   b. Life Tenant - Remaindermen
   The holder of the life estate is sometimes referred to as the life tenant, and those to whom the property is to pass at the death of the life tenant are sometimes called the remaindermen.

4. Property Held in Joint Ownership
There are several ways for two or more people to own property together.

   a. Tenancy in Common
      1) Each tenant (owner) in common owns a certain interest in the undivided goods or property.
      2) Individual owners need not own equal shares and need not be related.
      3) Each owner has the right to dispose of his share in the property without the consent of the others.
      4) If one of the owners dies, his share descends to his heirs or by his will, and not to the other party holding the property in common with him.
      5) The interest (degree of ownership) of each owner may be seized for his debts.
      6) One tenant (owner) may force a division of the land by law suit.

   b. Joint Tenancy with Right of Survivorship
   Joint tenancy is often called joint tenure. It is a common practical way for husband and wife to hold such property as the family home.

The most important feature is the right of survivorship. This means if one owner dies, the remaining one or ones become the owner of the whole property.

c. Tenancy by the Entirety

This is a special kind of joint tenancy in real estate, provided for in the laws of some states, which can be created only between husband and wife. It carries the right of survivorship. Once this type of co-ownership has been entered into, neither the husband nor the wife can break the arrangement unless both join in a deed to convey away what they both own.

Because of the impact of federal estate taxes in estate settlements, it is not good judgment for a husband and wife with estates much in excess of $60,000 to hold their property in joint tenancy or in tenancy by the entirety. To do so removes the flexibility in estate planning that may be helpful in reducing federal estate taxes.

There are also certain disadvantages involved in joint ownership. While joint ownership, with its elimination of the necessity of administration of an estate, can be very valuable, there are other cases where the use of joint tenancy is unsuited. This is most apt to be true where the amount involved is fairly substantial and it may actually increase the expense of transferring property between two or more generations. Therefore, joint tenancy should be created only under the guidance of a lawyer.

5. Personal Property Held Jointly

Bank accounts, stocks and bonds, U.S. Savings Bonds, safety deposit boxes and other personal property can be owned jointly. Joint property is part of the gross taxable estate.

a. Bank Accounts

A joint bank account is payable to either or survivor--if the husband and wife have a joint tenancy with right of survivorship account. Although the bank will hold up payment of checks immediately after the death of one of the parties, the surviving party can have the bank request a clearance from the tax commissioner. This release can usually be secured immediately and will give the survivor the right to draw on all or a designated part of the account.

Such accounts should read:

HARRY A. SMITH or MARY A. SMITH

The signature card, which constitutes the agreement between the depositors and the bank, contains the specific wording which creates the right of survivorship as between the depositors.

Stocks and Bonds
Stocks and bonds are often owned in joint ownership. The wording showing ownership should be carefully checked. The wording generally favored is:

Harry A. Smith and Mary A. Smith, as joint tenants, with right of survivorship, not as tenants in common.

b. U.S. Savings Bonds
The U.S. Treasury provides a choice of registration for bonds held in joint ownership. One of the permitted forms for U.S. Bonds is "Harry A. Smith or Mary A. Smith"; another permitted form is "Harry A. Smith, payable on death to Miss Helen Bell Smith." In the first case, upon the death of one co-owner, the surviving co-owner will be recognized as the sole owner; in the second case, upon the death of the owner, the named beneficiary will be recognized as the owner, but is still taxed in decedent's estate for federal tax purposes.

Where the bond is registered in the name of one person, for example, "Harry A. Smith," it will become a part of his estate.

c. Safety Deposit Boxes
There are several ways in which the tenancy of a personal safety box may be arranged. Husband and wife can hold the box in both of their names as joint tenants with rights of survivorship; it can be taken in the name of one, with the other named as deputy to enter; or it can be taken in the name of either with no deputy named. The bank will seal the box upon the death of a joint owner until it can be opened in the presence of the Ohio Inheritance Tax representative. The fact that the safety deposit box is held in the name of one individual, or jointly in the names of two or more individuals, does not necessarily govern the ownership of the property which may be in the box, either during the lifetime of the owner or owners, or at the time of the death of an owner.

d. Other Personal Property
Tangible personal property such as livestock and farm equipment, and the family car, are most often held in one individual's name and would become a part of his estate at his death; but these, too, may be held in joint ownership. What fits one family's needs may or may not be suitable for another. For this reason, an attorney should be consulted before property is placed in joint ownership.

B. Methods Used in Property Transfer

Transfer of property takes place at death by direction of a "Will" or by direction of the Laws of Distribution of the state.

The transfer can take place during the life of the owner by way of a sale, gift, contract or combination of these. Also the sale or gift can reserve a life estate which make the value included in the decedent's estate.

1. "Wills"

a. Why Have a "Will"?
A "Will" is an instrument by which a person provides for the disposition of his property after death.

If no "Will" is made the courts will provide an administrator who will divide the estate strictly according to law. Often the provisions that the law make are not the provisions that the deceased would have wanted.

Making a "Will" is sound business and is something that should not be neglected. Anyone who owns property, real or personal, even though the amount may seem small, should have a "Will". "Wills" should be changed as circumstances change. The individual making the "Will" can name the executor of his choice, rather than having the court name an administrator. YOUR LEGAL ADVISOR CAN HELP YOU WITH THIS IMPORTANT TASK.

b. Legal Requirements and Limitations for a Valid "Will" in Ohio
1) Testator must be over eighteen years of age
2) The "will" must be in writing and signed by the testator
3) The "will" must be signed in the presence of at least two competent witnesses who must not be beneficiaries under the "will."
4) The witnesses must each sign as such at the request of the testator and in the presence of the testator.
5) The testator must, in the presence of the witnesses, declare the instrument to be his last "will" and testament.

c. Can a "Will" Be Changed?
A testator may change or revoke his "will" as often as he desires, unless he becomes insane or unsound in mind or under undue influence. Rewriting the "will" is best, or an amendment called a codicil may be attached at the end of a "will." The codicil must be witnessed the same as the "will", although the witnesses do not have to be those for the full "will" previously drawn. Every "will" should state at the outset that it is the last "will" of the testator. Never mark up a "will"; you may invalidate it.

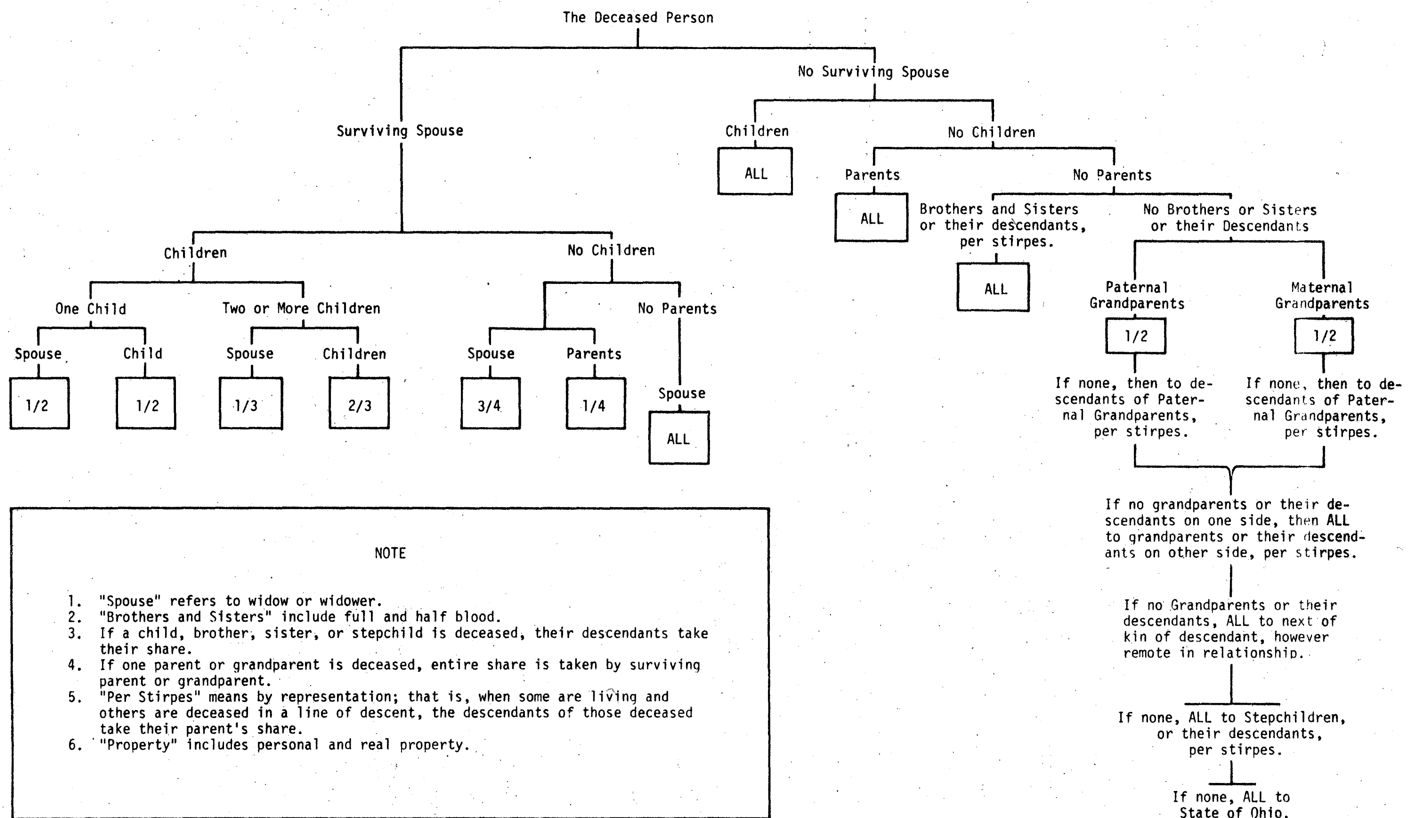
d. May a Person "Will" His Property Any Way He Wishes?
The law protects the legal share of the surviving spouse. If the "will" leaves the surviving spouse less than the share of the property to which he or she would have been entitled had there been no "will", he or she has the privilege of choosing whether to accept the "will's" provisions or to take the share allotted by the law. A child can be disinherited in the "will."

The purpose of the above information is merely to make farmers and homemakers more aware of legal problems, so that they will have a better understanding as to when a lawyer should be consulted. Application of the general principles contained in the above information to specific situations should not be attempted without consultation with an attorney.

2. Law of Descent and Distribution

This has been called the sleeping dog route, no valid arrangements for disposal of property has been made.

Descent of Property - By Law. As in every state, there are laws in Ohio that directs how the property of a deceased person who dies intestate (having made no valid will) is to be distributed. Property descends and is distributed as follows:



3. Insurance

We so often think of life insurance as a means that is used to protect a young man's family against loss of income in the event of his premature death. It also can have a different role. It can be a kind of investment as well. It can provide cash in an estate to pay "death dues". The annual premium paid for an ordinary life insurance policy is used in two ways. Some part of it is used to pay off the policies for those insured persons who died this year. The remainder is invested for the insured. This reserve fund increases over the life of the policy and could be referred to as its cash value.

Ordinary life insurance on a male, age 25, costs about $15. per year per $1,000. of insurance (face value) of which about $6.40 goes for term insurance and the remaining $8.60 goes to build up cash value (or reserve) of the policy. At age 50 the $1,000. of insurance would cost $34. per year and at age 62, $65. per year.

How does a family use life insurance to reduce problems in settling an estate--provide a liquidity factor? If by examining the husband's probable estate and the estimated estate taxes, it is felt that $50,000 cash might be needed to pay death dues, the wife might buy $50,000. of life insurance of the husband's life, using her own funds or income, owning the policy herself and naming herself as the beneficiary. At the husband's death the $50,000. is then available to pay taxes or debts of the estate and leave the real estate entact but she is not necessarily obligated to use it for those purposes.

For the wife's estate the husband can purchase insurance on the wife's life for the same purpose. Insurance purchased by the husband, with his estate being named the beneficiary is included in his taxable estate on two scores. He owned the policy and the proceeds are paid to the estate. If his wife purchased the policy on the husband's life but his estate is the beneficiary, it still is included in his taxable estate. If the wife is the owner of the policy on her husband's life and she is the beneficiary (the person to whom the face value of the policy will be paid upon his death) then it is not a part of his estate. However she needs to be prepared to prove that she is the owner of the policy and is in fact paying the premiums on the insurance.

If, assuming this last situation, the wife dies first, then the cash value, not the face value of the policy, would be a part of her estate. If she died having paid premium on the $50,000. policy on her husbands life for 4 years, then the current cash value might be $13,000. This amount not the $50,000. would be a part of her estate.

4. Installment Sale

This type of transfer arrangement can achieve two important goals: (1) a reasonable degree of financial security for the parents and (2) a reasonable degree of opportunity for the farm operating son and his family. In addition, the farm operating son and his family are provided with the maximum incentive to save money and to maintain the productivity of the farm.

The payment schedule should be chosen with four factors in mind: (1) the purchase price of the farm, (2) the size of payments the son can expect to make out of the anticipated farm income, (3) the anticipated lifetime of the surviving parent, and (4) the needs of the parents.

From a business viewpoint, the sale of the farm from parents to the farm-operating son on an installment basis either by a land contract or deed of trust has much to commend it. It is a clean-cut business transaction, and all of the parties know where they

stand. The son knows he will get the farm if he does what he has agreed to do. The parents can use the interest and principal payments for their needs during retirement. They can also avoid a re-investment problem that would arise with an outright cash sale or with an accelerated payment schedule. If the son fails to make the payments, the parents can regain possession of the farm. The other children are not left out by such a sale. The balance due under the contract, as well as the unexpended money received from the sale of the farm become part of the parents' estate which should be disposed of by will.

The installment sale can be a land contract or a mortgage deed. The difference is determined by who holds the deed.

5. Partnership

A partnership may aid in transferring property from one generation or one party to another. The son can secure an interest in either real or personal property or both by gift or purchase, or as compensation for labor and management contributed to the partnership. The partnership is a very flexible ownership arrangement and may be handled in many ways in planning an estate.

The partnership's flexibility may be a disadvantage if it becomes unstable at the death of one of the partners. In this respect, it is similar to tenancy-in-common. At the death of a partner, the other partner may be forced to settle up, and distribute to the deceased partner's estate a share of the partnership assets. In a farm operation, this could result in the disruption or dissolution of the farm business.

Such disruption could be avoided, however, if the deceased partner's heirs are bound to honor the partnership by a written provision in the partnership agreement. Such a provision would prevent much of the instability that may arise in settling the estates of the respective partners.

A partnership is somewhat unique in that a partner may leave his share of the property to his partners with complete disregard for his spouse or family if he wishes. If the partners have made this arrangement, the spouse's statutory share under Ohio's intestate laws means nothing.

6. Incorporations

A corporation is an artificial being created under state law. It is a separate business entity distinct from its owners, who are called shareholders because they own shares or interests in the corporation. The major characteristic of the corporate form of business organization is this sharp line of distinction between the business and the owners. The corporation is a separate legal person as well as a separate taxpayer unless shareholders are qualified and elect to be taxed like a partnership known as a Sub Chapter S or Pseudo Corporation.

One advantage of a corporation is that it is easier to transfer one or more shares of stock at any one time by gift or sale from parents to children than it is to transfer one or more acres of land. So long as more than 50 percent of the stock is in either or both of the parents' names, the parents could continue to have the controlling vote in the corporation and in the farming operations.

It should be noted in this connection that a minority shareholder in a farm corporation is likely to find himself or herself in a weak position. This may happen to the farm-operating son or to the mother if there is more than one heir involved in the estate settlement.

Reducing estate settlement costs and estate taxes by means of gifts is a feature often discussed as an advantage of a corporation. Thus, if you wished to reduce the size of your estate during your lifetime by means of gifts, it is made easy through giving away shares of stock in a corporation. Much the same thing can be done by selling the farm on an installment payment basis and then making gifts equal to a part or all of the current payments on the contract or mortgage up to the exempted limits. However, the income tax on the sale of the farm is involved if there is a capital gain.

7. Trusts

One useful device to hold property or to manage property is by the use of a trust. Of all of the tools of estate planning it is probably the least understood and appreciated. A trust is an instrument through which the owner transfers property to a custodian, called the trustee. The trustee manages or invests the property for someone named in the instrument as the beneficiary.

A person may do an excellent job of managing his assets when he is active, alert and aware. When his health fails, his arteries harden, his eyesight fails or he gets too old or worried he may need assistance. One flexible and practical tool that can be used to carry out objectives is a trust.

If there will be large life insurance proceeds a trust may be an orderly way of caring for tomorrow's needs of the heirs.

Trusts are special, versatile instruments. Those that will commence at the time of death are called testamentary trusts. A trust created and operating during one life is called "inter vivos". There are revocable and irrevocable living trusts. A revocable trust is one that gives you, the settler of trust, the power to revoke, and or alter the trust during your lifetime.

Property that you have placed in a revocable trust will still be included in your taxable estate because you have retained control of the asset.

An irrevocable trust arises when you completely dispose of your power to control the property in the trust or the income from it. Gift tax liability often results from the creation of an irrevocable trust.

C. Taxes Involved in Transferring Property

1. Ohio Inheritance and Estate Taxes

NEW LAW
(As of July 1, 1968)
Estate Tax

(a) Exemptions (Each estate has $5,000 exemption plus the following:

(1)	Spouse	$20,000
(2)	Minor children	7,000
(3)	Adult children	3,000
(4)	Brothers, sisters, nieces, nephews, etc.	0
(5)	Institutions, corporations and others	0

(b) Tax rate on estate less exemptions and deductions or (taxable estate)

First $40,000 -- 2% of taxable estate
$40,000-$10,000 -- $800 plus 3% over $40,000
$100,000-$200,000 -- $2,600 plus 4% over $100,000
$200,000-$300,000 -- $6,600 plus 5% over $200,000
$300,000-$500,000 -- $11,600 plus 6% over $300,000
Over $500,000 -- $23,600 plus 7% over $500,000

(c) Filing date --
Within 15 months of death

(d) Deductions--Federal Estate Tax
examples: certain part is a credit (on a graduated basis)
taxable estate of $90,000 maximum credit would be $400.

(e) Example: Successor -Wife

(1) $100,000 estate after deduction but before exemptions $1,850
(2) $600,000 estate before exemptions $28,850
(3) $800,000 estate before exemptions $42,850

2. Federal Estate Tax

The federal estate tax is levied at death on all the property of a decedent whether real or personal, tangible or intangible and wherever situated, except real property situated outside of the United States. The total value of the items is called the "gross estate". The tax is imposed upon the taxable estate (gross estate less allowable deductions and exemption) of a decedent and not upon the share received by a particular beneficiary; that is, the tax is upon the decedent's estate before it is divided and not upon the share or shares of the estate received by any one person or persons.

Property Included in the Gross Federal Estate

The major items included in the gross estate are as follows: 1) All property in which the decedent, at death, owned a fractional or entire interest (except real property outside the United States); 2) Insurance on the life of the decedent payable to his estate; 3) Insurance on the life of the decedent payable to other beneficiaries if the decedent had any rights of ownership in the policy; 4) Property "given away" by the decedent during his lifetime in which he kept a life estate for himself--for example gave a deed with the reservation of a life estate, or property "given away" by means of a deed-in-escrow to be delivered after his death; 5) The full value of property owned in joint tenancy less any portion that did not originate, directly or indirectly with the decedent; and 6) Gifts made within three years prior to the decedent's death if made in contemplation of death.

Deductions

Deductions include the following: 1) Debts, funeral expenses, costs of administering the estate and losses from fire, storm and other casualty or theft during the settlement of the estate; 2) The amount of money or property left to charitable, religious and educational organizations; and 3) The amount of money or property passing without reservation to a surviving spouse--but this deduction cannot be more than 50 percent of the adjusted gross estate (gross estate less the deductions listed in item 1 above), even though more than one-half actually goes to the spouse. This is the "marital deduction" which permits a person to leave roughly half of his estate to his spouse free of tax.

Exemption

An exemption of $60,000 is allowed to all estates. This means that the first $60,000 after all deductions are subtracted, passes free of tax. Thus if a person had an adjusted gross estate of $120,000 and left at least half of it outright to his wife, there would be no tax because the marital deduction would reduce the taxable estate to $60,000 and the estate exemption would offset that amount.

Marital Deduction

Exemption from federal estate tax of one-half of taxable estate if the decedent has left 50% or more of the estate to remaining spouse. Only available between husband and wife.

Filing Requirements

Form 706 must be filed by every citizen or resident of U.S. whose gross estate exceeds $60,000 in value at the time of death. The return should be filed within nine months after death unless an extension of time has been requested and has been granted.

Computation of Tax

The gross estate reduced by (a) the deductions and (b) the $60,000 estate exemption equals the taxable estate. (See following table for the tax rates on the taxable portion of the estate.)

Assume for example, a gross estate of $150,000. If the deductions listed in "deduction item 1" were $20,000 the adjusted gross estate would be $130,000. If 50 percent or more of the adjusted gross estate is left to the surviving spouse, the marital deduction and and the estate exemption would be $125,000, that is the $60,000 exemption for the estate and the deduction of ½ of $130,000 or $65,000 for property passing to the surviving spouse. The taxable estate would then be $5,000, that is $130,000 less the $125,000.

Table A

Computation of Gross Estate Tax

Taxable estate equal to or more than— (1)	Taxable estate less than— (2)	Tax on amount in column (1) (3)	Rate of tax on excess over amount in column (1) (4)
			(Percent)
0	$5,000	0	3
$5,000	10,000	$150	7
10,000	20,000	500	11
20,000	30,000	1,600	14
30,000	40,000	3,000	18
40,000	50,000	4,800	22
50,000	60,000	7,000	25
60,000	100,000	9,500	28
100,000	250,000	20,700	30
250,000	500,000	65,700	32
500,000	750,000	145,700	35
750,000	1,000,000	233,200	37
1,000,000	1,250,000	325,700	39
1,250,000	1,500,000	423,200	42
1,500,000	2,000,000	528,200	45
2,000,000	2,500,000	753,200	49
2,500,000	3,000,000	998,200	53
3,000,000	3,500,000	1,263,200	56
3,500,000	4,000,000	1,543,200	59
4,000,000	5,000,000	1,838,200	63
5,000,000	6,000,000	2,468,200	67
6,000,000	7,000,000	3,138,200	70
7,000,000	8,000,000	3,838,200	73
8,000,000	10,000,000	4,568,200	76
10,000,000	....	6,088,200	77

Table B

Computation of Maximum Credit for State Death Taxes (Based on Federal Taxable Estate)

Taxable estate equal to or more than— (1)	Taxable estate less than— (2)	Credit on amount in column (1) (3)	Rate of credit on excess over amount in column (1) (4)
			(Percent)
0	$40,000	0	None
$40,000	90,000	0	0.8
90,000	140,000	$400	1.6
140,000	240,000	1,200	2.4
240,000	440,000	3,600	3.2
440,000	640,000	10,000	4.0
640,000	840,000	18,000	4.8
840,000	1,040,000	27,600	5.6
1,040,000	1,540,000	38,800	6.4
1,540,000	2,040,000	70,800	7.2
2,040,000	2,540,000	106,800	8.0
2,540,000	3,040,000	146,800	8.8
3,040,000	3,540,000	190,800	9.6
3,540,000	4,040,000	238,800	10.4
4,040,000	5,040,000	290,800	11.2
5,040,000	6,040,000	402,800	12.0
6,040,000	7,040,000	522,800	12.8
7,040,000	8,040,000	650,800	13.6
8,040,000	9,040,000	786,800	14.4
9,040,000	10,040,000	930,800	15.2
10,040,000	....	1,082,800	16.0

At the death of the surviving spouse, assuming he or she had received the entire estate from the other spouse, the federal estate tax would apply on the remaining balance of the $130,000 in the estate less the allowable deductions and the $60,000 estate exemption. In addition, the surviving spouse might also have had some additional property. Thus it is at this "second stage" that the impact of the federal estate tax is of greatest importance and estate tax planning is essential.

An Illustration: Assume that a farm owner has a wife about 60 years old and two sons over 21. He has a farm valued at $400,000. The title to the farm is in his own name. His wife has no substantial amounts of property in her name, either in fee simple ownership or in joint tenancy with her husband. He wants to leave his farm to his wife and two sons, and wants his wife to leave whatever she has at death to the sons.

In planning this estate, the lawyer would have to consider all the possible contingencies including the probable order of death of the family members and ultimate beneficiaries such as daughters-in-law and grandchildren. However, for this illustration, assume the farm owner will die first leaving his wife and sons surviving. On the basis of these limited facts, he has several ways of achieving his purpose, with varying results from the standpoint of state estate and federal estate taxes.

Plan I: If the farm owner left the entire $400,000 farm as a life estate to his wife and remainder to the sons, he would be allowed the estate exemption of $60,000 and owe a federal estate tax of $85,500 plus any state inheritance or estate tax. No marital deduction is allowed for a life estate to a wife. However, there would be no additional tax at the time of the wife's death because she owned only a life estate.

Plan II: If the owner left all the property to his wife outright, the marital deduction (disregarding debts, funeral and other estate expenses) would be ½ of the $400,000 or $200,000. This amount plus the estate exemption of $60,000 leaves a net estate of $140,000 upon which a federal estate tax of $32,700 in addition to the state estate would be due. However, when the wife died, leaving the property to the sons, her estate would be taxed, this time allowing for the $60,000 estate exemption but without a marital deduction. Assuming the estate was still valued at $400,000, her federal tax would be $94,500. This amount plus the $32,700 federal tax at the death of the husband would make a total federal tax on the estate of $127,200 plus the state taxes.

Plan III: If the owner combined Plans I and II, dividing the estate into two parts, with half passing outright to the wife to qualify for the marital deduction $200,000 and half passing to the wife for life with remainder to the sons, the husband's federal estate tax would be $32,700. Upon the wife's death, assuming she still had property valued at $200,000, the federal estate tax would be about $32,700. Thus the overall federal estate tax would be about $65,400 plus the state inheritance or estate tax. Following this plan instead of Plans I or II, results in a considerable reduction in federal estate taxes.

It would be impossible, however, to follow Plan III of estate tax management if the property were held in joint tenancy (or tenancy by the entirety) with the wife because all of the property would pass outright to the wife as the surviving joint tenant. Thus one of the real disadvantages of joint tenancy so far as federal estate

taxes are concerned, results from the fact that it may preclude taking advantage of the "life-estate-remainder" tax saving device as shown in these illustrations. If husband dies and tax is paid and wife dies within two years 100% credit of his tax on her estate and a table can be used to figure the reduced credit.

3. Federal Gift Taxes

a. Tax on transfer of property by gift during lifetime of owner--not made in contemplation of death.

b. Each person can give tax free
   1) $30,000 once in a lifetime
   2) $3,000 annually to as many different individuals as you so desire
   3) Husband and wife together could give $60,000 once in a lifetime and $6,000 annually to each beneficiary.

Table for Computing Gift Tax

(A) Amount of taxable gifts equaling—	(B) Amount of taxable gifts not exceeding—	Tax on amount in column (A)	Rate of tax on excess over amount in column (A)
			Percent
....	$5,000	....	2¼
$5,000	10,000	$112.50	5¼
10,000	20,000	375.00	8¼
20,000	30,000	1,200.00	10½
30,000	40,000	2,250.00	13½
40,000	50,000	3,600.00	16½
50,000	60,000	5,250.00	18¾
60,000	100,000	7,125.00	21
100,000	250,000	15,525.00	22½
250,000	500,000	49,275.00	24
500,000	750,000	109,275.00	26¼
750,000	1,000,000	174,900.00	27¾
1,000,000	1,250,000	244,275.00	29¼
1,250,000	1,500,000	317,400.00	31½
1,500,000	2,000,000	396,150.00	33¾
2,000,000	2,500,000	564,900.00	36¾
2,500,000	3,000,000	748,650.00	39¾
3,000,000	3,500,000	947,400.00	42
3,500,000	4,000,000	1,157,400.00	44¼
4,000,000	5,000,000	1,378,650.00	47¼
5,000,000	6,000,000	1,851,150.00	50¼
6,000,000	7,000,000	2,353,650.00	52½
7,000,000	8,000,000	2,878,650.00	54¾
8,000,000	10,000,000	3,426,150.00	57
10,000,000	....	4,566,150.00	57¾

The gift tax computation for each year is based upon all of the accumulated gifts made over prior years. Gift taxes due must be paid within three months after gift is made. For example, if the first year's gifts (in excess of the exclusions, exemption and deductions) were $10,000, the gift tax for the first year would be $375. If the next year's taxable gifts were also $10,000, the tax for the year would be $1,200 (tax on $20,000 of gifts) less $375 (tax on the prior gifts) or $825.

It is highly important for the farmer to be knowledgeable of the consequences of the Ohio estate and the Federal estate tax.

Conclusion

After you have about arrived at a plan for holding and transferring your estate it would seem desirable most of the time to:

1) Talk it over with those members of the family who will be affected.
2) Seek competent assistance in putting the plan into effect.
3) Keep reviewing the plan to be sure that it is up-to-date.