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Family Estate Planning: Revised 1970

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Family Estate Planning

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Estate planning is most effective where both husband and wife become involved. All too often a wife is left with property or funds to handle without an understanding of how to manage property or how the husband intended it to be managed.

Well meaning friends and family members may offer advice to a widow that could upset plans already made. The wife needs to know what plans have been made, how they would work should the husband die, who the family legal advisors are that can be called upon for help, and where important legal papers are kept.

Many problems that might arise upon the death of one partner can be minimized or eliminated by joint discussions and planning by husband and wife.

HOW DO YOU RATE ON FAMILY ESTATE PLANNING?

Check yourself on this scale. Growth of income and net worth, family security, and minimizing income, inheritance, and estate taxes are involved in an estate plan. To achieve these goals a number of questions that are involved in estate planning need to be considered.

	Know	Don't Know	Uncertain
Questions Husband Should Ask:			
1. Is my will in the proper form and up-to-date?	☐	☐	☐
2. What are the terms of my wife's will and where is the document kept?	☐	☐	☐
3. How can I arrange for disposing of my property so it will provide lifetime security for myself and my wife and a good start in life for my children?	☐	☐	☐
Questions Wife Should Ask:			
1. Is my will in proper form and up-to-date?	☐	☐	☐
2. What are the terms of my husband's will and where is the document kept?	☐	☐	☐
3. How much do I know about our business, records, bank affiliations, and major firms that my husband does business with?	☐	☐	☐
Questions Husband and Wife Should Ask Together:			
1. Who is our attorney, life insurance agent, bank trust officer, and accountant?	☐	☐	☐
2. What is our current net worth?	☐	☐	☐
3. What are our financial and family goals? Will we be able to provide for our children's education and a satisfactory social and retirement income?	☐	☐	☐
4. How do we plan to keep our business intact for one or more of our children?	☐	☐	☐
5. What is our current income tax—can it be reduced through a different type of asset ownership while still maintaining or increasing our income?	☐	☐	☐
6. What would be the inheritance and estate tax if one or both of us should die? Can we reduce this through the use of gifts, transfers, and title changes?	☐	☐	☐
7. How will our property be transferred upon one or both of our deaths? Are we planning to use property titles as the vehicle so that the desired people will receive our property?	☐	☐	☐

THIS PUBLICATION DISCUSSES why farm and agri-business managers and families should plan their estates and suggests considerations in planning, including titles, transfers, and taxes. Farm examples are used throughout. However, the principles presented apply to many types of family situations.

The information is not intended as a substitute for competent advice from an attorney, an insurance estate planning advisor, a bank trust officer, accountant, or other competent estate-planning worker. Rather it raises questions and suggests action that may encourage a family to seek professional help to fulfill its objectives and goals. Estate planning has often been a neglected management activity among rural South Dakotans. When viewed as part of farm and family financial management, it will likely be more interesting to work with.

An estate plan involves developing a family's financial, educational, and social goals. It needs to provide a satisfactory income and security. A good plan includes the accumulation and management of real and personal property; selection, and in some cases involvement, of heirs in the estate plan; and provisions for care of minor children.

The impact of estate and inheritance taxes should be carefully considered. On estates above certain sizes the federal government levies an estate tax. South Dakota levies an inheritance tax on individuals who receive property from a deceased person. Both taxes are progressive in that the larger the estate and inheritance, the greater the tax rate or percent of an estate that is used to satisfy tax demands. The South Dakota tax rate varies with the degree of relationship of the heirs to the deceased.

There are a number of estate planning tools that if properly used can help you obtain your objectives. To clearly understand the tools and the nature of estate planning and to develop your own plan requires a considerable amount of planning time and help. Some tools that you may want to become acquainted with include: wills, property title arrangements, transfer by gifts and sale, trusts, annuities, partnerships and small corporations, life insurance, and the nature of the various taxes.

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Family Estate Planning

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Estate planning concerns the development of family goals and objectives and the way they are fulfilled. It involves one's activities in earning money and acquiring assets, the way he earns them, uses them, and how he provides for their distribution to his family, friends, and church, schools, or other institutions during his lifetime and when he dies.

Whether your net worth is large or small, you have an obligation to your children to provide them with an education and a start in the world. When you die, your property must be disposed of and, if it is worth over a certain amount, inheritance and estate taxes will be due. Advanced planning can reduce or in some cases eliminate the death taxes that will be due. Legal arrangements that reduce taxes are usually advantageous to beneficiaries.

Through an estate plan you can control the disposal of your property upon death. Whether you will be leaving a fortune or a modest estate, you should be interested in who receives it and what taxes will be incurred upon it. An estate plan may aid heirs in developing their full potential.

WHY AN ESTATE PLAN IS IMPORTANT

To Establish Goals

By developing a plan for net worth accumulation when you are relatively young, you may set financial goals for your life's work. While you may not follow the initial plan, if it is thoroughly developed you will have something to adjust from and to point to your goals.

To Guide Your Children's Development

Planning an estate can force you to decide on your life's goals and the aid. if any, that you want to provide for your children. You may decide that the farming opportunities you will be able to provide your children don't look promising or that their interest and abilities appear to lie in other areas. Hence you may want to invest in several years of education for your children beyond high school and opportunity for travel and participation in a wide range of cultural activities. This may mean that you will forego some capital accumulation.

You may want to provide both education and an opportunity to farm for your children. A farm plan which is developed early in life may have considerable influence on the values and goals your children develop. Your long range farm plan may help your children to develop a strong interest in farming and a deep appreciation for its potential and future.

To Minimize Taxes and Provide for Your Family Upon Your Death

Estate planning may be easy to ignore. You may not have had the experience of settling an estate and hence are not familiar with the problems that can develop without a detailed plan. Estates tend to be larger than some years ago since land values and the value of other farm assets have increased considerably. You may be using a major amount of hired capital which could involve some problems in an estate settlement if not properly planned for.

State and federal laws permit considerable flexibility in planning and executing estates. Without an estate plan, taxes can be higher than necessary upon your death. With an estate plan you may be able to keep income, estate, and inheritance taxes to a minimum.

Estate planning for death is essential because:

1. If the husband dies, the widow will have to be his substitute. She must prepare to accept this responsibility; she cannot do this unless she knows the husband's hopes, wishes, and plans for implementing them.
2. Most farm families have worked a lifetime to produce the capital they have and want it held intact for family security and carrying family plans to fulfillment.
3. Preparation for life must continue for the farmer's children. Their support and education is an obligation that should not terminate at the death of one or both parents.
4. A farmer may have obligations to support parents and other members of his family which he may want continued.
5. A wife may be sure of herself in money and property matters while her husband is alive but may not be when her husband isn't available to discuss these matters with her and to aid her in decisions. It is wise to plan with her, not only about what you want

[1]The assistance of Professor Edwin Hadd, Law School, The University of South Dakota, in reviewing the material in this publication is gratefully acknowledged.

her to do with your estate, but about the counsel she should seek after your death.

6. Most farmers desire to provide for the future of the business. Can your wife and children continue with it? If your operation is a partnership, what provisions have you made for termination of the partnership by the death of your partner or yourself? If your operation is a corporation, what will be the impact of your absence from the business and what arrangements will you make for the disposition of your stock ownership in the corporation?

It is wise to keep these items in mind when you plan and also to plan for changes in circumstances as well. For example, when you plan your estate your net worth may be $100,000; when you die it might be $150,000 or $200,000. Thus the estate tax could be greater if proper planning does not precede death.

WHEN TO PLAN YOUR ESTATE

An estate plan is important at any stage in life. It is often wise to begin to plan when you complete high school or college; a comprehensive plan can give guidance to activities throughout life. Understanding the appropriate tools and laws and a familiarity with property titles, taxes, and survivorship rights can make planning a challenge to an individual as well as a foundation to adjust from should your interests and abilities change.

It may be advisable to review your estate plan at least every 5 years and possibly more often, depending on change in: 1) new family members, 2) health conditions of family members, 3) material change in net worth, 4) change in the interest of your children, 5) change in outlook in the type of farming in which you are engaged, 6) change in laws affecting your estate plan.

TASKS IN ESTATE PLANNING

The first task is to provide satisfactory income, security, and enjoyment during your life for you and your family. This step involves one's daily activities in managing the farm business for profit and other desired goals.

The second task involves managing real estate, personal property, and income taxes, achieving a satisfactory retirement program, making legal arrangements for transfer of your farm and other assets to family members and others some time in the future, and reducing the taxes that will occur at your death.

The third task is to consider your family and other heirs involved in your estate plan. Your wife should be able to carry on a satisfactory life at any time should something happen to you. If your children are planning to farm, you may want to start by including them in the operation early in life and possibly help them establish an ownership interest in the operation.

A father and son farming operation, to work successfully, requires a formal agreement as well as close cooperation and understanding. One of the most-often expressed obstacles encountered by children who desire to farm is that their parents are hesitant to enter into a formal operating agreement or to discuss plans for transferring the farm to the children either prior to or upon death. Many farm parents apparently feel that there is ample time in the future to discuss their estate plans with their children. However, a son may be reluctant to invest his resources in permanent improvements in a family farm without knowing that he will receive favorable consideration in owning or controlling the farm in the future. There can, however, be a negative side to disclosing estate plans to children at too early an age since it could discourage them from producing at their capacity and encourage them to rely on inheritance instead of their own ability to develop financial independence.

The fourth task is to plan for the period immediately following your death. This is the period when demands on your estate are great, in that costs can be high for such items as your last illness, funeral expenses, claims of your creditors, estate administration costs, and state and federal taxes. Unless your estate plan includes some cash and assets easily converted to cash, some farm personal property and real estate may have to be sold, since the fore-mentioned expenses must be met shortly after death. A forced sale may result in loss of some farm assets which will be reflected in less income for your survivors and perhaps lower value of the remainder of your farm assets.

The fifth task in planning concerns the adjustment that your family will have to make after your death. You will need to be concerned with adequate security and income for your widow and an equitable distribution of your remaining assets among your children and family.

DISTRIBUTION OF SOUTH DAKOTA RESIDENT'S PROPERTY IN THE EVENT OF NO WILL

Property not held in joint tenancy and not disposed of by will is distributed according to the South Dakota Laws of Descent. These laws are regarded as "fair" and set forth the way in which the legislature "believes" a person would want to have his property distributed if he has not made other arrangements. These laws apply to residents of South Dakota at the time of death.

Distribution of property without a will in South Dakota:

Survivors	Real Estate and Personal Property
Spouse and 1 child or grandchild	½ to spouse, ½ to child or ½ to grandchildren if no child is living
Spouse and children	⅓ to spouse, ⅔ to children
Spouse but no children	Up to $100,000—all to spouse; over $100,000—first $100,000 to spouse and amount exceeding $100,000, ½ to spouse, ½ to father and mother in equal shares, if neither survive then ½ of estate over $100,000 goes in equal shares to brothers and sisters or to their children or grandchildren by representation.
No spouse but children	All to children or grandchildren
No spouse or children, but parents	All to parents in equal shares or if either is dead, then to the other.
No spouse, children, or parents	All to brothers and sisters in equal shares
No spouse, nor children, nor parents, nor brothers or sisters	Entire estate goes to next of kin
No surviving relative	Property passes to the state as the ultimate heir for the support of the common schools

Dower interest: The dower and curtesy concepts have been abolished in South Dakota.

TRANSFER, TITLE, AND OPERATING TOOLS

Several alternative methods are available and often used for transferring property prior to or upon death. If properly used, these can help reduce estate and inheritance taxes and help heirs find a sense of security and achieve greater operating efficiency if they gain part or full ownership of property before parents die.

After the goals and objectives have been established for an estate and the basic gift, inheritance, and estate tax rules, which are presented later in this publication, have been mastered, the transfer, title, and operating tools of estate planning can be applied. Basic principles of farm and financial management, educational goals, and opportunities are not presented in this publication. A list of relevant publications in these areas is presented elsewhere in this publication.

There are a number of tools—or legal arrangements—that can be used in estate planning, each with some advantages and disadvantages. The optimum plan for an estate may involve the use of several legal tools.

Advice on the use of these legal arrangements can be secured from an attorney who specializes in or is informed on estate planning. It is especially important to understand and properly use legal instruments, since the government may interpret your intentions, if they are not clear, in a different manner than you intend and thereby impose a tax on your estate for which you have not planned.

THE WILL

A will is employed to distribute property at death in a manner different from the plan devised by law under the laws of descent. It can be altered or revoked at any time as long as the person is of sound mind. As a result, there are a number of ways that a will can help you accomplish the goals and objectives of your estate plan.

A will is a written document which any person of sound mind and 18 years of age, in South Dakota, can make. It must be in writing and signed by the maker (or by a person in his presence and at his direction if he is unable to sign). Also, it must be signed by two competent witnesses. A beneficiary should not be a witness. The witnesses preferably should be relatively young and expect to continue living in the community. This affords an opportunity for witnesses to be available when the will is to be probated and to testify that it is the document of which they saw the testator sign and declare to be his will. A person who makes his will is called a "testator" and the one who dies leaving a will is said to have died "testate." The person named in the will to manage and settle the estate is called the executor (executrix if a woman).

In selecting an executor, consider his farm and financial experience and ability, his personal financial responsibility, and his impartiality and probable availability. It is common to use a spouse, relative, or friend as executor. They may have the advantage of being familiar with your property and your family's needs. However, in some cases it is advisable to choose a corporate executor, since he is professionally trained in the area and may be able to work impartially if family disputes arise. If you desire both a family and corporate executor, you can appoint co-executors.

Since a will can be altered or revoked at any time as long as the person is of sound mind, it allows changes in the estate plan to correspond to changes in one's circumstances. A will can be amended by a codicil, which is a modification of a will. It must be signed and witnessed in the same manner as the will. If major changes are necessary, it is wise to draft a new will and destroy the old one.

In transferring property by will, there are some consequences that can be avoided as opposed to transfer by the laws of descent. Through a will you can (1) make a logical plan for distribution of your property; (2) transfer your farm property intact as a going concern; (3) provide for family members according to their needs; (4) designate who shall be guardian of minor children; (5) make maximum use of tax-saving devices such as the estate tax, marital deductions, trusts, and life estates; (6) select an executor to manage and distribute the estate and provide that he will serve without bond and also select the estate attorney.

The following are additional items about a will that you should be aware of: (1) Almost everyone over 18 should make a will regardless of his financial position. In most all farm family situations, it is usually important for both husband and wife to have a will. (2) Before making a will, consider what general objectives are to be accomplished and the specific objectives that the owner has had for his property in case of death. (3) When gifts of real estate are provided for in a will, they are called devises (or gifts) of personal property; gifts by will of cash, stocks, and farm equipment and other personal property are called bequests. (4) With small estates it is important to avoid divisions of property into small units, which may happen through statutory distribution. (5) Since bequests of cash take first priority over other personal or real property, it is best not to make cash bequests of a size that would force a sale of a farm or property to raise the needed cash if you wish to have the farm held intact.

When the objective is to transfer a farm intact as a going business, include both a bequest and devises. Legally a gift by will of a farm or farmland transfers only real estate and buildings. Separate reference must be made as to personal property that is to be included with the farm. The person who inherits your farm and farm personal property normally will also inherit your business debts and encumbrances. A will should specifically identify the fund out of which debts are to be paid.

Wills get obsolete and therefore need regular review and occasional rewriting. A will may be changed as often as the parents desire and as long as they are of sound mind. If ownership arrangements are not made prior to the parents' death, for example, a son may be past his most productive age before he attains ownership of the farm. If a farm is devised in a will and is given away or sold during the life of the deceased, the indicated beneficiary does not receive an interest in land sold nor any part of the proceeds that may be derived from a sale. If land is acquired after the will is drawn, it is not normally passed on as a part of the farm described in a will but is distributed among the general heirs after specific bequests are satisfied.

JOINT TENANCY

Property held in joint tenancy does not pass as part of an estate, but a portion passes directly to the other owners. It takes precedence over division of property expressed in a will. Each owner of property held this way has a right to destroy the arrangement and the right of survivorship and take his proportionate share of the property outright at any time. It may save probate costs but not inheritance or estate taxes.

Joint tenancy is a means of holding title to real and personal property among two or more persons in such a way that each owns equal shares while alive, but on the death of any one owner his share goes to the other owners. The last survivor receives the whole property. This avoids probate and administration, and may thereby reduce cost and delay.

In some cases there is a tax disadvantage in this ownership method, especially in a larger estate. The federal estate tax falls upon the entire value of the property unless it was jointly purchased by one or more survivors. The South Dakota inheritance tax falls only on the share contributed by the deceased owners unless married spouses are involved in which case the tax is imposed on one-half of the value of the joint-tenancy property regardless of who furnished the capital.

Some farm families use the joint-tenancy arrangement to transfer a farm to a son who is farming. At the death of the parents, the property automatically belongs to the son. However, if the son is married and should die before either of the parents, there would be no interest to pass on to his wife and children. This is especially unfortunate if the son has contributed to improvement and increase in the value of the property.

If any of the parties in a joint-tenancy do not get along after it is set up he could withdraw, take his interest outright, and thus defeat the purpose of the joint-tenancy and break up a business or farm operation. This could be unfortunate for parents if they were planning on income from a farm for retirement or for a son if he were planning on the farm for a means of livelihood and the parents suddenly decide to dissolve the arrangement.

TENANCY-IN-COMMON

Two or more persons each own undivided but not necessarily equal shares in real estate under this arrangement. There is no right of survivorship. Each co-tenant at any time can sell, give away, or transfer upon death his share of such property.

The inheritance law creates a "tenancy-in-common" when there is more than one heir. One important tax feature of holding property as tenants-in-common is that the federal estate tax applies only to the fractional interest that a person holds at his death. An advantage to tenancy-in-common over joint-tenancy for a son who may die while co-tenant with parents or others is that his estate would go to his family.

One of the significant features of this arrangement as a planning tool is that shares of ownership need not be even. Thus, parents could transfer to a son a small undivided interest in a farm and as the son advanced, additional fractions could be conveyed either by gifts or by sales. The portion remaining in the father's name at his death might be left to the wife or some other children with or without a provision permitting the farming son to buy them out.

One of the difficulties with the tenancy-in-common arrangements is that all co-tenants have equal rights to manage the property. This could lead to discord, especially if there are more than two co-tenants. With this arrangment a farm-operating heir with a co-ownership interest in the farm may feel a greater sense of security than actually exists since the other co-tenants may sell or dispose of their shares at any time. Since this is the case, the farm-operating heir should work out an agreement on improvements either to the effect that he will own all improvements that he may make or that all co-tenants would share in costs of any capital improvements.

Important Features of Joint-Tenancy and Tenancy-in-Common

Joint-Tenancy	Tenancy-in-Common
1. Each owns equal shares	1. Each owns undivided but not necessarily equal shares
2. Right of surviving owner	2. No right in surviving owner
3. Each joint tenant can break up the arrangement, destroy the right of survivorship, and take his proportionate share of the property outright	3. Each co-tenant can have the property physically divided and have his share separately from the others or he can demand that the property be sold and he receive his share in cash
4. Federal estate tax law presumes that the entire property is taxable to the deceased tenant unless contribution of ownership can be shown	4. Federal estate tax applies only to the fractional interest that a person holds at his death

Advantages and Disadvantages of Co-Ownership. Co-ownership by either joint-tenancy or tenancy-in-common subjects much of an individual's right in real estate to the good will and interests of the other co-tenants. From a practical standpoint, it is difficult to sell, mortgage, or rent such property without the consent of all co-tenants.

Parents who may need funds in their old age may be restricted financially if most of their property is in co-ownership with one or more of their children. If a son who is involved in a joint-tenancy with his parents dies, the parents might be liable for a gift tax on the original transfer or for an inheritance tax on the share returned to them.

TRANSFER BY GIFT

Federal law allows an individual to give a total of $30,000 to one or as many people as he desires. In addition, an individual may give $3,000 per year, per person to as many people as he desires. To retain some security, farmers may use a deed in escrow or a deed with a retained life estate. Neither of these arrangements provide gift tax advantages.

There may be several advantages to passing farm property to children by means of a gift.

A gift of part or all of a farm may encourage the son to remain on the farm and improve it. Or if a son knows at an early age that he owns a financial interest in a farm, it may encourage him to seek the type of training that will aid most in operating and managing the farm. It may also tend to allow a father to retire from active farming at an earlier age while still remaining active in a management role.

There are two major tax advantages in transferring property as a gift. If the parents are in a relatively high income tax bracket, they may be able to reduce such taxes by shifting income producing property to their children. Secondly, estate and inheritance taxes can be reduced by decreasing the size of the estate that must pass through court administration. Costs of estate administration may also be reduced this way.

If a farmer desires, he can transfer all or part of a farm to a son or others by sale or gift over a period of time. He could, for instance, set a market value on the farm at a given time and sell the farm to the son on an installment contract. Or, he could incorporate and give him shares of stock in the corporation. In this manner, most or all of the farm could be transferred to a son at the rate of $3,000 a year by one parent or $6,000 by both during the father's life without being subject to gift taxes. A like amount could be given to a son's wife and to the son's children if desired. If the whole farm or a portion of it were transferred by gift at one time, there could be a total of tax free gifts of $30,000 by one parent, or $60,000 by both parents plus $3,000 or $6,000 for each beneficiary. A gift of a future interest such as by deed with the reservation of a life estate does not qualify for the $3,000 exclusion.

If a gift tax is incurred, it is usually less than inheritance and estate taxes would be on the same property. This is the case since property given as a gift reduces the taxable estate at the top of the estate and inheritance tax bracket and the gift tax applies at the bottom of the gift tax bracket. If a farmer has several pieces of property that were purchased at different prices, it is often wise to give the one with the highest tax base (purchase cost plus improvements less depreciation). This is so because the tax base carries over to the receiver of the gift. If the base is low, depreciation deductions are usually small, and if the property is later sold and the current market value holds or increases, the income tax will be high because of large capital gains.

It is important to recognize that a gift must be so in fact. A pseudo gift will not be excluded from an estate for tax purposes. To qualify as a tax saving gift no powers of control can be retained. Parents should recognize that when they make gifts, income from the property transferred is legally given up. If not properly planned, the donor parents' security may be reduced below a desirable level by the making of too large or too many gifts too soon.

Deed in Escrow or Life Estate. Some farmers, to retain some security, retain some rights in their property when making a gift. This is often the case when they use a deed in escrow or a deed with retained life estate. Neither of these arrangments normally provides gift or death tax advantages. With the typical deed in escrow arrangment, the property owner executes a deed giving it to a third party with instructions to have it recorded and given to the beneficiary. At the death of the owner, the property passes without probate. This is often a desirable estate planning device but it does not reduce death taxes.

A property owner can deed his property to an heir while reserving a life estate for himself and perhaps his wife. With this arrangment, probate at death can be avoided. Where these deed transactions are secretive, litigation may follow since a dissatisfied heir may attempt to prove that the donor did not completely surrender the power to get the deed back during his lifetime. If this can be proven, the property under consideration passes by the law of descent.

Control problems can also arise. When a deed with a retained life estate is used, the power to alter the arrangment is usually lost. The power to borrow on the property is largely destroyed and the life tenant is responsible for maintaining the property and is prohibited from making substantial alterations or allowing changes that lessen the property's value. To avoid these latter problems, specific arrangements should be fully described in the deed.

A life estate arrangment can be used to insure that a son or other child will receive a farm in the future and at the same time retain the farm's productive use for the parents. By this method a son actually owns an interest in the farm land but the right to use the farm land belongs to the parents until their death. The son would own an outright interest, which he can sell or mortgage but he does not have the right of use or possession until the parents die unless they lease it to him. A life tenant can use the property as he wishes as long as he does not commit willful destruction or waste. He is entitled to all rents and profits.

The parents could lease the farm to a son while they are still alive. Thus the son could operate the farm during the parents' lifetime and be assured that the land would be his in the event of their deaths. This arrangment could also be used to provide a life income for the donor's wife, through a will, with the son as the tenant during her life.

A life estate can be created by a will. When this is done care should be used to specify the rights and duties of the life tenant. By this means the life tenant's use of the property and the relationship with remainder men of the estate (usually children) can be made more satisfactory.

A life estate may reduce settlement costs. Life interests in the life estate dissolve at death and property subject to them passes directly to the remainder men rather than through administration. Although it is necessary to terminate the life interest for purposes of clarifying the title to property, its value is not included in the estate of the life tenant. A farmer can leave one-half of his estate to his widow and the other one-half to his children with a life estate for his widow. Only the one-half left to the widow would be taxed in her estate.

To provide flexibility a life estate can be set up with a power of appointment. This arrangement allows the life tenant to name a person to receive the property after the life tenancy. If this arrangement is used, it is important to set up an alternative plan of distribution in case the person who is given the power fails to exercise it. Otherwise, the property subject to the power may be distributed under the statutory rules of succession. Tax considerations when powers of appointment are employed depend upon the nature of the power.

TRANSFER OF FARM PROPERTY BY SALE

Installment Land Contracts. This is a type of sale of land with a low down payment and a long-term for payment. Title to the property usually remains with the seller until a specified amount of the purchase price has been paid. The increased interest in this form of land sale in South Dakota is witnessed by the fact that about 50% of the land transfers were handled in this manner in South Dakota in 1963, whereas only 10% were handled in this way 10 years earlier.

There are a number of reasons for giving consideration to the land contract as an estate-planning device. For instance, a son may desire to own the parent's farm but the parents may not be able to make it a gift. Other heirs may have legitimate claim on the farm. Through the use of the land contract the son can be set up in a going business with incentive to increase his equity in the business.

From the tax standpoint, sale to a family member, or anyone else at a fair market price, eliminates gift tax questions and establishes a value for death and income tax purposes. Proceeds from the contract not expended or given away by the parents are taxed at death as part of the estate. There may be an income tax advantage. The parents would be taxed upon payments received only to the extent that they represent a capital gain. If the payment received in the first year of the sale is less than 30% of the sale price, capital gains may be spread over the period of the installment payments.

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

Some difficulties may arise as a result of use of the contract (if not anticipated and properly planned for). For instance, one of the parents may die before the contract is completed; the son may default on payments, or the parents may find that they need more money per year than is provided for by the contract. Each of these possible difficulties can usually be worked out ahead of time.

Installment Sale Using a Mortgage. The advantage of an installment sale can be attained under a plan in which the parents transfer a deed to the farm at the time of sale and receive a first mortgage on the property as security. The down payment and length of mortgage could be the same as the contract. However, it generally takes a greater length of time for a seller to foreclose under a mortgage arrangement if the purchaser defaults on his payments.

THE TRUST

A trust may be created during life to continue after death or it may be set up in a person's will to become effective upon his death. It can help assure efficient property management for heirs with limited management ability while still providing a steady retirement income. A trust can also be set up to help assure that a farm will continue to be operated as a single economic unit under unified management without unreasonable restrictions after a farmer's death.

A trust is an arrangement whereby the management, control, and legal title to property is placed in a trustee (a person or an institution) who manages or operates the property for the benefit of other persons—the beneficiaries. A trust created during life is termed a living trust.

An irrevocable trust is a living trust that is set up so the maker cannot repossess the property during his lifetime or change the beneficiaries of the trust. If the trust is irrevocable and pays no income to the maker, no estate or inheritance tax is due when he dies. However, it is treated as a gift at the time the trust is created and is subject to the federal gift tax if of sufficient size. If the income from the trust is retained for the maker, there is no inheritance or estate tax advantage since the value of the trust at his death is included in the maker's estate.

A revocable trust allows the maker to repossess the property or to change the beneficiaries. With this arrangment the tax liabilities are usually the same as if the trust has not been established.

A testamentary trust is created by willing a trustee certain property to be managed and distributed in accordance with the testator's directions as embodied in his will. A trust under this arrangment becomes effective after the death of the testator and as soon as the property has been administered and delivered to the trustee. This type of trust may be the most useful when property is to be used for the protection of the wife during her lifetime and the unexpended portion is to go to the children or their descendants. The testamentary trust can also be employed effectively to protect the interests of children until some specified age later than legal age. A trustee can be empowered to draw on the principal for educational requirements of the children and for emergencies if the income provided proves to be inadequate.

A testamentary trust will not reduce tax liability upon the death of testator, but it may be useful in reducing these costs at the death of the wife or children if they survive the testator. Costs of administering the same property as part of the wife's estate when she dies can also be avoided by employment of a trust.

A person who establishes a trust may name himself trustee or he may choose another person or corporation for this purpose. A trust written into a will differs from the lifetime trust only in that it does not begin to operate until death and the owner cannot serve as a trustee. A person who wishes to fully control his property until death and to protect his heirs thereafter without the disadvantages of life estates may want to consider using a trust created by will.

While the trust is flexible, it may best be limited in use to certain types of properties. Placing a farm in trust may give rise to managerial difficulties if the management responsibility is not clearly defined and cared for. Personal property such as cash, stocks, and bonds is more easily managed than real estate.

An idea that is becoming more popular is to set up a life insurance trust during one's lifetime. At death, the insurance is paid to a trustee, often a bank's trust department. The trust directs the use of the insurance proceeds. It may, for instance, be used to provide a monthly income for the spouse or education for the children. Finally, a trust arrangement allows considerable flexibility since the maker can place restrictions upon it, yet at the same time it allows the trustee the flexibility and power to deal with problems unforeseen at the time it is created.

THE ANNUITY

An annuity is a right to a sum of money for a specified period of years or for life. It can be set up to transfer property to children and still provide income for parents or a surviving spouse. Parents may transfer a farm to children in return for a promise by the children to pay a fixed amount per year for the remainder of the parents' life. This is known as a private annuity. Commercial annuities are also available.

The life annuity discussed here is one in which the payment period contracted for is the lifetime of the annuitant. It is similar to a life estate except that the annuitant's right is a claim to money rather than an interest in property itself. Annuities are contracts which may be either private or commercial.

Private Annuity. Some difficulties may arise when parents transfer a farm to a son in return for a promise to pay a fixed amount to the parents for the remainder of their life. The parents may die soon after the transfer and thus the son would receive the farm for a very low price, or the parents may live longer than expected and the price may be excessive. Low farm income may place a burden on a son if yearly payments are excessive, and if annual payments are based only upon the promise of the son, the parents would have no claim to the land if payments were not made.

These problems can be eased by using a flexible scale of payments or by an arrangment that if payments are not made, the parents have a right to foreclose on the land regardless of the ownership at the time of foreclosure. The annuity arrangement can be set up so that parents can direct in their wills that payments be paid that would be due in the future.

Commercial Annuity. A farm transfer plan can be based on a commercial annuity which may be purchased from an insurance company. The person taking over the farm would pay the cost of the annuity to the insurance company. The insurance company under this arrangement assumes the obligation to make regular monthly or yearly payments to the person named in the annuity contract.

For instance, at the time of transfer of the farm to a son who is operating the farm, the annuity could be purchased in one lump sum. Under this arrangement the son could raise money to purchase the farm through the use of a mortgage. This type of annuity could also be set up so that the son would make yearly payments to the insurance company. Under this latter arrangement the parents may want to wait several years after the plan starts beginning to draw on the annuity.

Insurance companies issue two basic types of annuity or income arrangements that can be purchased: (1) a straight life annuity under which the quota income will continue during the lifetime of the annuitor and with no payments due at or after his death, (2) a cash refund life annuity under which guaranteed monthly payments are made during the annuitant's lifetime and an additional lump sum payment is made at his death equal to the excess, if any, of the purchase price over the sum of the monthly payments received. Under the latter plan, the guaranteed income obtainable for a given sum is less per month than under the straight life annuity.

PARTNERSHIP ARRANGEMENTS

A family partnership can be set up so that a market value is attached to property and periodic gifts of part of the property can be given to children. The subject of these gifts may represent the child's capital contribution to the partnership business. An installment land contract may also be used to transfer property to children.

There are two types of partnerships—general and limited. In a general partnership, all partners share with each other the management authority, responsibilities, profits, and losses and each is liable for the action of all partners. In a limited partnership, one or more partners may limit their liability for partnership debts and obligations to the extent of their investment in the business. A limited partner cannot participate in the management of the business and is considered only as an investor. At least one general partner handles the management of the business and is fully liable for all partnership debts and obligations. In a family partnership each partner reports his share of profits on individual federal income tax returns.

It would tend to give the parents a guaranteed income while allowing the operating son an opportunity to increase his equity in the business. The installment contract can also be used to support the widow after the husband's death.

In setting up a partnership, a likely area of disagreement to anticipate and plan for concerns the rights and obligations of each partner in labor and management of the farm.

INCORPORATION

A major advantage of the corporation in family transfers is that a definite value is placed on property that may be transferred to children, either by gift or by sale. A second advantage is that parents may rapidly or gradually withdraw from the operation of the business and by sale of their stock establish a satisfactory retirement income. It can further help to accomplish the objectives of keeping the farm as a going business while a son or children are building up equity in the business so that they may carry the business from one generation to the next. Some additional advantages of the corporation include the possibility of acquiring a greater amount of capital, providing employee insurance (including the owners', if they are employees), and pension and profit-sharing plans. Other advantages are limited liability and ease of fragmenting capital interest.

In recent years farmers and ranchers have shown increased interest in corporate operation.

Reasons for interest in this form of ownership vary with the individual farm family. One reason appears to be due to the 1958 federal tax law under which the earnings of certain small corporations may be exempt from taxation first on corporation earnings and again on dividends distributed to the shareholder. In some families the corporate route is being used to make inter-family transfers of farm property and to lessen the impact of taxes and probate costs in estate settlement.

Most farm and ranch corporations are closely held in that few stockholders are involved and stock transfer is permitted only within the family. The owners of the closely held corporations enjoy a more limited liability than partnerships or single proprietorships.

There are some disadvantages to the corporate route to consider, for some farming operations require more detailed records (this may also be an advantage). Cost of incorporating may run as high as $1,000 or more, and there may be special annual taxes. Since most family corporations are tightly held, there is a restricted market for the shares. Finally, if the farm corporation ownership is not properly arranged, management control could become vested in nonoperating members so that a son who may be operating the farm would not have control of it. This could be prevented by limiting the purpose of the corporation to leasing land under a cash, flexible cash, or standing rent.

USE OF LIFE INSURANCE

A life insurance program may be used in an estate plan to provide financial protection at death, to meet expenses and debts, as a systematic savings program, and as a retirement program. It may also be used to distribute assets equitably among heirs, to complete a partnership arrangement, and to provide funds for children's education.

Life insurance can play an important role in estate and farm and family business planning. If it is made payable to the estate, it provides cash when most needed for settlement of estate debts. If it is payable to beneficiaries, it can be used to pay inheritance taxes and provide funds for continuing the operation of a farm business.

Insurance payable to an estate may increase estate and inheritance taxes. Under the South Dakota inheritance tax law, life insurance payable to the estate is taxed. However, if it is payable to a named beneficiary, it escapes the inheritance tax. To qualify as nontaxable under the federal estate tax law, the deceased cannot have any incidents of ownership in the policy at his death and cannot retain the power to borrow on the policy or to change the beneficiary.

It is important to fully analyze estate settlement needs for cash before making an heir (or heirs) rather than the estate the beneficiary. The gain in tax savings by making the heirs the beneficiary may be more than offset by a forced sale of all or part of a farm business to meet needed cash requirements in an estate settlement.

In addition to financial protection at death, there are other uses for life insurance in estate planning. If there are several children in a family, a farm may be given to a son that is operating it and life insurance of equal values may be given to the other children. Some families use a life insurance trust. Under this arrangement the insurance proceeds are paid to a trustee who directs the use of the proceeds upon death. Under the proper conditions, the funds in an insurance trust are not subject to inheritance taxes.

Life insurance may also be used to complete a partnership arrangement. For instance, if a son has a contract to buy his father's partnership interest in a farm at death, the son could insure his father's life as a means of providing the purchase money if the father's death occurs before the son has built sufficient capital to complete the purchase.

For some farmers the savings and investment features of certain types of policies are important. For those unable to save voluntarily, this is especially important. When an emergency strikes there is usually some cash reserve in the policy which the farmer can borrow against. While the savings and investment type of life insurance policies may not provide as high a return and capital growth as some investments, they are certain and guarantee the principal. The type of policies that combine a savings feature can also be useful in farm-family transfers. If the policy is set up so the parents have a retirement income from it, they can more easily transfer a farm to their children since they may not have to count on the farm for retirement income. Parents may be able to retire earlier too if they have retirement life insurance.

In the past, major emphasis has been placed on insuring only the family bread winner. This is still important if funds for life insurance are extremely limited, but the housewife should also be insured. She is an important part of the income producing team in most farm families.

In addition some families are using the savings-investment type of life insurance to provide for their children's education. Part or all of the children's college expenses can be met by cashing such policies. If the parents are insured and if they should die before the policy is paid up, then the proceeds would be available for education.

Timing of Purchase. It is good management at any age in life to consider and reconsider life insurance. Hence, it is wise to learn the principles of life insurance at an early age. Life insurance premiums are lowest for the young person and increase with each year of age. This is because the likelihood of death, on the average, is greater for each year of increased age.

For some young people that have only themselves to care for financially, purchasing insurance may be a needless expense. However, it is wise even for the young person to carry enough life insurance to care for final expense and his debts. For the single, young farmer contemplating marriage, it may be advisable to purchase some life insurance while single to carry through the period when finances are usually very limited.

How Much and What Type to Buy. If life insurance is necessary, how much and which type of insurance are needed depends upon the individual situation.

In determining the amount to buy, consider the following: (1) how much cash will be needed to meet final expenses, unpaid medical bills, taxes, other debts; (2) how much money will be needed for the family to live at an acceptable level; (3) how much money will be needed for the children's education through trade school or college; (4) if in a partnership, how much money will be required to buy out the partner's share of the partnership business should he unexpectedly die?

After the needs have been estimated, it is useful to carefully estimate the cash and income that present resources are likely to provide. In addition to the present financial resources of the family, Social Security may also make a contribution. In most cases it will provide income while there are minor children and a pension for the widow after age 62 should the father die. It will also provide a modest lump sum death payment. After the family needs have been determined and the resources available have been subtracted, the difference is what life insurance can wisely be considered to cover.

After this amount has been determined, the problem of what policy to choose is still in the forefront. Basically there are four kinds of policies: (1) term, (2) ordinary life (sometimes referred to as whole life), (3) limited payment life, and (4) endowment.

Term Insurance. As the name indicates, term insurance gives protection for a limited term or time and usually costs less per dollar of protection than the other type policies. Some companies sell term policies for 5, 10, or more years. However, the shorter the term the lower the annual rate. The same premium is generally in effect during the term of the policy (1, 5, 10 years) and the company pays the face amount of the policy if death occurs during that time. But when the term expires, the contract is completed. Another policy must be purchased if additional insurance is desired. For a slightly higher premium, term policies may be renewed annually without medical examination.

It is generally advisable to make sure that term insurance is "renewable" or at least "convertible." Renewable means that you can renew it if desired (at the higher rate in effect at an older age), regardless of your physical condition. If the policy is convertible, it can be changed into another type of policy without a medical examination. One or both of these features would guarantee that the insured could buy insurance in the future even if his health failed in the meantime.

Ordinary Life. The premium of an ordinary life policy is higher than term insurance. However, this type of policy is for life and there is no increase in the annual premium. Since the policy has a cash value, it has an investment or savings feature and is the least expensive of the permanent-type policies. Most ordinary life policies have an indefinite maturity date, which is either death or the attainment of age 100.

Limited-Pay Life. This type of policy provides the same benefits as the ordinary life policy but provides for the payment of premiums in 20 years (or other limited-payment periods of 10, 15, or 30 years) rather than throughout the life of the insured. With this type of policy, level annual premiums are paid for the specified number of years. The face value of the policy is not paid by the insurance company until death and the policy is kept in force by the company until then as a paid-up life contract. During the premium payment period, the premiums are higher than for ordinary life. The higher premiums take care of the limited payment feature and higher cash surrender values of limited-pay life. One of the most important features of this policy is that premium payments can be limited to the period in life when one is most productive.

Endowment Life Policy. This type of policy is written for a fixed number of years, for example 30 years or to age 65. The insured pays premiums for the stated number of years and if he should die before then, the beneficiary would receive the face value of the policy. If the insured is living when the policy matures, he may collect the face value either as a lump sum or as monthly income payments, or it may be left with the company to draw interest.

Other Type Life Policies. Other types of policies are available to fit particular needs. They are, in general, combinations or adaptations of the four basic policies. The "family" life policy, for instance, insures all members of a family under a single contract. Under this policy, the head of the family is usually insured under an ordinary life plan and term insurance with conversion provisions is issued to the wife and children. This type of policy can usually be obtained in units ranging from $5,000 to $15,000 on the life of the father, with insurance on each dependent at about one-fifth of the unit purchased. The premium is based on the age of the father and the face amount of the policy.

Sometimes a mortgage redemption policy is desirable. The face amount of the policy decreases as the mortgage on the property decreases. When the mortgage is paid, in most of these arrangements, there is an option to continue a lesser amount of ordinary life insurance at a lower premium.

G. I. Life Insurance. The United States government has provided term and ordinary life insurance for veterans of World War II and Korea. Because the rates are quite low it is advisable to keep this insurance. If needed you may supplement this coverage. For slight additional cost a veteran may add to the G. I. policy a provision for a monthly income of up to $100 in the event of his permanent and total disability.

Special Features. Most life insurance companies now will provide some special features with their policies which are helpful.

A disability clause can be obtained for a small additional premium. This clause provides that if the insured is permanently and totally disabled, the insurance company will pay all future premiums on the life policy.

A double indemnity clause allows the insured's beneficiary to collect double the face value of the policy in case of accidental death. For most farmers the extra money that would be needed to pay for double indemnity could be better spent on buying more protection. This is the case since the family needs will probably be no greater if the farmer dies in an accident or from natural causes.

For a small percentage of the regular premium, future insurability can be purchased. This essentially guarantees that a person will be able to purchase up to certain amounts of coverage at given future dates at regular rates regardless of the condition of his health at the later date.

Types of Settlements. Life insurance policies have many settlement options. Unless the policy names the estate as beneficiary, the policy rather than the laws or a will determines who gets what. Here are five common settlement options:

1) **Lump sum:** A lump sum payment is made in cash. This may be good if your beneficiary will need a large sum of cash and will be able to manage it.

2) **Lifetime income option:** The beneficiary receives an income immediately after death which continues for the remainder of his (or her) life.

3) **Time option:** Income begins immediately upon death and continues for a guaranteed period, say 10 to 20 years or until the principal and interest are used up.

4) **Amount option:** A set income begins immediately upon death and lasts until the principal and interest are used up.

5) **Interest option:** The proceeds and interest of the policy accumulate with the company and are paid as income to the beneficiary beginning a stipulated number of years after death or when the beneficiary reaches a certain age.

When the proceeds of a life insurance policy are left with the company and are payable to a wife in installments, the installments are computed to include interest. The interest is taxable income to her, but as the surviving spouse she is entitled to an annual exclusion of $1,000 on this income.

Under most of these options, the insured may allow the beneficiary to draw on the principal (borrow in advance). This makes the program more flexible.

TAX SHELTERED RETIREMENT PLAN

Recent federal legislation permits self-employed individuals, including partners, to set up a tax sheltered retirement plan with current income deductions for contributions to the plan. If an individual elects to claim the fund at or near retirement age, he will presumably be in a lower income tax bracket and have more exemptions and credits when he receives retirement benefits than during his higher income earning years.

A tax sheltered retirement plan is not taxed until it is distributed or made available to the self-employed person or his beneficiary. Benefit payments under retirement plans qualified under this law may not begin before 59½ years of age unless the individual becomes disabled or dies. Use of the fund or its earnings before this age results in tax penalties. There are also penalties for making excessive contributions to the plan. Farmers nearing retirement age will not gain significant tax benefits from a qualified self-employed retirement plan. The tax advantages increase with the number of self-employed years before retirement. Before starting such a program, weigh the tax advantage against other uses of the funds.

Self-employed plans that qualify for the "tax shelter" include: (1) a retirement trust fund with a bank as trustee; (2) a custodial account in a bank which is invested in redeemable stock of a regulated investment company or invested in life insurance policies; (3) life insurance contracts (endowment or annuity) payable no earlier than age 59½; and (4) a special series of U. S. government bonds.

The following is in effect until December 31, 1967:

A self-employed person, including a partner with more than a 10% interest in capital or profits of the partnership, may contribute up to 10% of earned income or $2,500 (whichever is less) during a taxable year to a qualified retirement plan. If both capital and services materially contribute to income, then up to 30% of such income, but not less than $2,500 is considered to be earned; but if net profits are $2,500 or less, the whole amount of such profits may be considered earned income. Farmers are considered under the law to be engaged in activities in which both capital and services are material income-producing factors. Half of the amount contributed to the plan is deductible on the income tax return up to a maximum of $1,250 annually.

Any amounts paid for employees are entirely deductible. A self-employed person who sets up this type of retirement program must also cover all full-time employees with 3 or more years service. Employees working less than 5 months per year or not over 20 hours per week may be excluded.

Federal legislation in 1966 indicates that certain provisions of the tax sheltered retirement plan will be more favorable to persons using the plan after December 31, 1967. The new law provides that net profits from a business are to be considered earned income for purposes of computing the amount of a contribution to a retirement plan.

It will not be necessary to use the 30% restriction if net profits are derived from a trade or business in which full-time employment—personal services of a self-employed person—is a material income-producing factor. Further, instead of one-half or $1,250 as a maximum deduction, the new law allows that a maximum of $2,500 is deductible on the income tax return. Thus an individual who can meet the other conditions and has a net profit of $25,000 in his taxable year could deduct 10% of this or $2,500 from his federal income tax if he placed this amount in an appropriate retirement program.

SOUTH DAKOTA INHERITANCE TAX

Property inherited by South Dakota residents by either the laws of descent or by will is subject to the South Dakota inheritance tax. The tax is computed separately for each heir or beneficiary and not on the decedent's entire estate. The administrator or executor is required to pay the tax for all of the heirs before final estate distribution. However, each heir is responsible and chargeable for payment of his share of the inheritance tax unless a will provides that they are to be paid out of other funds.

All of the property of the decedent must be inventoried and appraised within 30 days after the appointment of the administrator or executor. The Department of Revenue may disagree with the appraised valuation, however, and request the court to approve a higher value. In either case, the heirs, in their own interest should see that the appraisal values do not exceed a "fair market value."

Under the South Dakota law, the tax rate becomes higher as the size of the inheritance increases. The rate at which an inheritance is taxed also depends upon the relationship of the beneficiary to the decedent—the rate becoming higher as the relationship becomes more distant. Beneficiaries are divided into six groups: (1) husband and wife; (2) children and their descendents; (3) mother and father; (4) brother, sister and their descendents and sons- and daughters-in-law; (5) aunts, uncles, nieces, and nephews; and (6) all other persons and corporations.

Husband and Wife. The survivor is allowed an exemption of $15,000. Thus each may inherit $15,000 without tax. The rates above the $15,000 exemptions are as follows:

FAMILY ESTATE RECORD

Completion of this record will provide an estate inventory that will be helpful to you, your attorney, and others for estate planning and for drafting a will. It will also be useful in a family emergency when documents and papers must be located quickly.

DATE________________

FAMILY INFORMATION

HUSBAND'S NAME________________ AGE______

WIFE'S NAME________________ AGE______

CHILDREN (IF MARRIED, GIVE MARRIED NAMES)

1. Name________________ Age______

Address________________

2. Name________________ Age______

Address________________

3. Name________________ Age______

Address________________

4. Name________________ Age______

Address________________

NAMES OF GRANDCHILDREN

____

____

____

____

____

____

____

____

HUSBAND'S SOCIAL SECURITY NUMBER________________

WIFE'S SOCIAL SECURITY NUMBER________________

WHERE ARE THE FOLLOWING PAPERS KEPT?

Marriage certificate________________

Birth certificate________________

Armed forces papers________________

Income tax returns________________

WHICH MEMBERS OF THE FAMILY HAVE A WILL?

Husband: Yes______ No______ Attorney________________ Where is will kept? ________________

Wife: Yes______ No______ Attorney________________ Where is will kept? ________________

Other: ________________ Attorney________________ Where is will kept? ________________

Other: ________________ Attorney________________ Where is will kept? ________________

WHERE IS THE FAMILY BURIAL PLOT?________________

DO YOU HAVE IMPORTANT PAPERS BELONGING TO SOME ONE ELSE?

Name________________ What papers?________________ Where are papers kept?________________

Name________________ What papers?________________ Where are papers kept?________________

Name________________ What papers?________________ Where are papers kept?________________

ARE YOU A TRUSTEE OR GUARDIAN? DESCRIBE PROPERTY HELD AND PERSONS INVOLVED.

____

____

____

____

BANK ACCOUNTS

1. CHECKING ACCOUNTS

Bank ______ In whose name(s) ______ Ave. amt. $ ______

Bank ______ In whose name(s) ______ Ave. amt. $ ______

2. SAVINGS ACCOUNTS

Bank ______ In whose name(s) ______ Ave. amt. $ ______

Bank ______ In whose name(s) ______ Ave. amt. $ ______

Where are bank books kept? ______

Where is safety deposit box? ______ Where is key kept? ______

SECURITIES

1. U. S. SAVINGS BONDS

Date purchased	Serial number	Owner(s)*	Maturity value
			$

TOTAL $ ______

2. CORPORATE OR MUNICIPAL BONDS

Number	Issuer	Owner(s)*	Amount paid
			$

TOTAL $ ______

* Names of owners should be taken directly from the face of the bond(s). Show such language as "and/or" to indicate how title is held.

3. STOCKS

No. of shares	Company	Common or preferred	Owner(s)*	Value
				$

TOTAL $

4. NOTES AND MORTGAGES HELD FOR LOANS YOU MADE TO OTHERS

Name of person in debt to you	Name of person note is made out to*	Date due	

TOTAL $

LIFE INSURANCE

1. HUSBAND'S LIFE INSURANCE

Company	Policy number	Beneficiary	Premium date	Amount
				$

2. WIFE'S LIFE INSURANCE

Company	Policy number	Beneficiary	Premium date	Amount
				$

3. CHILDREN'S LIFE INSURANCE (TAKEN OUT BY PARENTS)

Company	Policy number	Beneficiary	Premium date	Amount
				$

* Names of owners should be taken directly from the face of the stocks and notes. Show such language as "and/or" to indicate how title is held.

AUTOMOBILES, FARM EQUIPMENT, LIVESTOCK, AND HOUSEHOLD GOODS

1. AUTOMOBILES AND TRUCKS

Make and year__________

Registered owner(s)__________

Where are titles kept?__________ PRESENT VALUE $__________

2. FARM MACHINERY AND LIVESTOCK

Is there an inventory?______ Where is it kept?__________

Owner(s)__________

PRESENT VALUE OF MACHINERY $__________

PRESENT VALUE OF LIVESTOCK $__________

3. HOUSEHOLD GOODS

Is there an inventory?______ Where is it kept?__________

Owner(s)__________

PRESENT VALUE $__________

4. OTHER ITEMS, SUCH AS GRAIN INVENTORY AND SPECIAL ITEMS OF EQUIPMENT

____

____

____

PRESENT VALUE $__________

5. OTHER ITEMS OF MORE THAN SENTIMENTAL VALUE, SUCH AS SILVER, JEWELRY, LIBRARIES

____

____

PRESENT VALUE $__________

REAL ESTATE

1. FARMS

A. Legal description__________ Owner(s) and type of title*__________

How acquired (inheritance, purchase, gift). Circle one. Year acquired______ Price paid or value when acquired______ Present market value $______

B. Legal description__________ Owner(s) and type of title*__________

How acquired (inheritance, purchase, gift). Circle one. Year acquired______ Price paid or value when acquired______ Present market value $______

C. Legal description__________ Owner(s) and type of title*__________

How acquired (inheritance, purchase, gift). Circle one. Year acquired______ Price paid or value when acquired______ Present market value $______

D. Legal description__________ Owner(s) and type of title*__________

How acquired (inheritance, purchase, gift). Circle one. Year acquired______ Price paid or value when acquired______ Present market value $______

TOTAL VALUE OF FARMLAND $__________

* If more than one owner, state whether tit'e is a joint tenancy or a tenancy in common.

2. URBAN REAL ESTATE

A. Legal description________________ Owner(s) and type of title*________________

How acquired (inheritance, purchase, gift). Circle one. Year acquired________ Price paid or value when acquired________ Present market value $________

B. Legal description________________ Owner(s) and type of title*________________

How acquired (inheritance, purchase, gift). Circle one. Year acquired________ Price paid or value when acquired________ Present market value $________

C. Legal description________________ Owner(s) and type of title*________________

How acquired (inheritance, purchase, gift). Circle one. Year acquired________ Price paid or value when acquired________ Present market value $________

D. Legal description________________ Owner(s) and type of title*________________

How acquired (inheritance, purchase, gift). Circle one. Year acquired________ Price paid or value when acquired________ Present market value $________

TOTAL VALUE OF URBAN REAL ESTATE $________

TOTAL VALUE, ALL REAL ESTATE $________

* If more than one owner, state whether title is a joint tenancy or a tenancy in common.

MORTGAGES AND DEBTS

1. REAL ESTATE MORTGAGES AND AMOUNTS OWED ON REAL ESTATE PURCHASE CONTRACTS

Property	Name of creditor or seller	Date due	Amount due
			$

TOTAL $________

2. CHATTEL MORTGAGES

Property mortgaged	Name of creditor or lender	Date due	Amount due
			$

TOTAL $________

3. UNSECURED NOTES

Name of creditor or lender	Date due	Amount d
		$

TOTAL $________

TOTAL, ALL DEBTS $________

GROSS ESTATE (NOT INCLUDING LIFE INSURANCE)........ $________

GROSS ESTATE LESS INDEBTEDNESS........ $________

NET ESTATE........ $________

ADDITIONAL INSURANCE INFORMATION

HEALTH AND ACCIDENT INSURANCE

Company__________ Name of agent__________

Address__________ Premium $__________ Date__________

CASUALTY INSURANCE

1. Automobile and truck

Company__________ Type of coverage__________

Name of agent__________ Address__________

Premium__________ Date__________

2. Buildings

Company__________ Type of coverage__________

Name of agent__________ Address__________

Premium__________ Date__________

3. Household goods

Company__________ Type of coverage__________

Name of agent__________ Address__________

Premium__________ Date__________

4. Other

Company__________ Type of coverage__________

Name of agent__________ Address__________

Premium__________ Date__________

WHERE ARE ALL POLICIES, INCLUDING LIFE INSURANCE, KEPT?

____

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This form was developed by N. G. P. Krausz, professor of agricultural law, Department of Agricultural Economics, University of Illinois. The "Family Estate Record" is a reprint of the one prepared by the University of Illinois.