Should You

Incorporate Your Farm?

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Should You

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by Hugo Martz, Frank Miller, and Fred Mann
Department of Agricultural Economics

Specialization in agriculture began first in the fresh fruit, vegetable, nut, and canning crop areas. It is in these areas that incorporation has appeared most frequently in the past. It is beginning to receive more attention in other types of agriculture in response to mounting investment costs and problems of passing farm units intact from one generation to the next.

But fruits and vegetables are not produced the same as most farm products. They are grown under specialization in both product and productive function. The skilled technician does not perform the hand labor, nor does the manager necessarily provide the capital. The farmer may obtain control of his land by leasing it. He may hire a custom worker to prepare the seed bed and plant the crops. A contractor may perform the various tillage operations, and spray and harvest the crops.

Some corporations own large tracts of land where specialty crops such as fruits and vegetables are grown. Much of the work is done by migrant laborers under the supervision of a foreman.

This is not the pattern in Missouri. Of 54 bona fide farm corporations included in this study in 1963, 33 had been formed since 1959. All were family-type farms. No more than two were formed in any one year prior to 1959. The numbers added annually afterward were: 1959 (6), 1960 (8), 1961 (6), 1962 (10), and 1963 (3 in the first three months).

Considering the nature and magnitude of the advantages, increased use of the corporate form of farm business organization can be expected. As the corporation grows in favor, off-farm ownership of stock will increase. It is possible for this method of financing agricultural enterprises to serve as a device for consolidating inadequate farm businesses into well organized units that can be made available to farmers at the outset of their careers. As the scale of operation increases, the cost of the incorporation process becomes relatively less burdensome financially.

Some people have contended that the corporation is ill-adapted to the family farm business. Closely held and publicly held corporations are governed by the same laws. These laws often unnecessarily restrict the activities of owners of the closely held business. Historically, however, as need for changed forms of business organization has arisen, the corporate structure has been altered to provide the framework necessary for achievement of the desired economic ends. Agriculture is at this point now. Optimum combinations of land, capital, and labor in a farm business require relatively large investments. No longer is it feasible to establish and maintain this optimum while refinancing farm businesses each generation.

Present methods of financing farm businesses need to be revised to give people in agriculture access to investment capital. The corporate structure in its present form may not meet all of the financial needs of farmers. But relatively minor changes will make it possible for a single firm to assemble large amounts of money, bring the factors of production together into optimum combinations while maintaining family farm units, and keep them intact generation after generation.

Many farms will continue to be owned by individuals and passed on to members of the family by customary procedures. Nevertheless, it appears that the corporate system of finance is needed to keep business organization in agriculture in line with other industries.

The Corporate Structure

The word "corporation" is not an economic term, although this legal entity may be set up to accomplish definite economic purposes. A corporation is an artificial person existing only in contemplation of the law. It comes into existence by having several natural persons unite in one body under a charter issued by a unit of government. A corporation can hold property, transact business, sue, and be sued in the corporate name. It is empowered to act in the capacities outlined in the charter and to transact business like a natural person.

From a legal point of view, the corporation is an entity separate and distinct from its body of owners, i.e., the shareholders. The main difference between corporations and other forms of business organization is the legal distinction between the business and the owners. Under the corporate form the corporation itself is the legally recognized entity; under the proprietary and partnership forms, direct legal rights and obligations involved in the business rest with the individual(s).

As an economic organization, a business corporation is an amount of capital devoted to a profit-making venture. Economic theory does not need to be modified when applied to the incorporated firm. In other words, the optimum allocation of resources is optimum with or without incorporation. Changes have occurred only in the legal framework in which management decisions are made. This statement does not imply that the form of organization does not affect the allocation of resources. In fact, the very purpose of this report is to discuss the organizational arrangements that can be used with farm corporations in facilitating the formation and maintenance of adequate farm units.

MISSOURI CORPORATION STRUCTURE

The process of incorporation is specifically set forth by statute in every state. In Missouri, there must be at least three incorporators who are natural persons, 21 years of age or older. They are required to file the articles of incorporation in duplicate with the secretary of state. The articles set forth such facts as the name, address, purpose, authorized shares, names of shareholders, and number of people on the board of directors of the prospective corporation. If the secretary of state finds that the articles conform with the legal requirements of the statutes, he issues a certificate of incorporation under the seal of the state. This certificate signifies the creation by the state of a legally valid corporate business organization.

Corporate ownership is vested in the shareholders. The equities owned are evidenced by possession of stock certificates indicating the number of shares owned. Shareholders have a number of varied rights. In general, they are the base of the corporate pyramid. Although control over their investment is quite indirect, matters which fundamentally affect the life of the company, such as changes in the authorized capital, amendments to the charter, or mergers with other companies, are submitted to a vote of the shareholders.

Shareholders' Relation to Management

The principal control that shareholders have over the transactions of the corporate business is the power to elect the board of directors. The directors in turn manage the business and make most of the policy decisions.

The basic management functions of the directors include selection of officers; control of executive compensation, including salaries, bonuses, and retirement pay; determination of production, marketing, expansion, and labor relations policies; declaration of dividends; adoption of financing plans; decisions to make capital changes; and supervision over the enterprise as a whole. Through principal-agent relationships the corporation (principal) entrusts the officers (agents), generally a president, vice-president, secretary, and treasurer, with the transaction of the daily corporate business.

In a closely held corporation such as a family farm organization, the shareholders, board of directors, and officers are often the same individuals. However, because of the different standards of "fiduciary"* care and the fact that tax authorities and creditors may allege that the corporation is merely a facade, it is important that the duties and functions of each group are carefully separated and strictly followed.

Financial Structure of a Farm Corporation

The financial structure of a corporation may be comprised of either equity (owned), or debt (borrowed) capital, or both. As noted, equity ownership is evidenced by certificates of shares. In a farm corporation, these shares may be issued in exchange for cash, machinery and

* Fiduciary is person to whom property is entrusted to hold, control or manage.

equipment, livestock, land, and services performed for the corporation.

Farmers have traditionally financed their enterprises through the use of debt capital with a fixed rate of interest. Corporate equity capital permits a type of financing whereby immediate payment need not be made for the money used (via interest or dividends) and the capital may be held as long as the business needs it. In this way, capital accumulation can be more rapid for purposes of business expansion.

The principal source of equity capital in a closely held farm corporation is from the incorporators themselves. Occasionally, equity capital also may be obtained from private parties such as retired farmers, doctors, lawyers, or businessmen who buy shares of stock.

Debt capital commonly takes the form of bonds, debentures, or promissory notes. Corporate debts create a debtor-creditor relationship between the corporation and the person or agency extending the credit. Corporate debt securities carry no voting rights and are issued with a definite maturity date for the principal. They bear a fixed rate of interest which is due regardless of income to the business. These debts are preferred over all shareholder's rights in liquidation, up to the principal amount of the obligation.

Shareholders are common sources of debt capital. However, if the shareholder is also an officer or director, the transaction must be open and free from fraud or impropriety.

In a closely held corporation, such as one owned by a family, the law prohibits unduly "thin" capitalization. Although most corporations employ a combination of debt and equity financing, the structure is said to be "thin" when the amount of the total capital represented by shares of stock outstanding is kept at a minimum while borrowings from shareholders comprise the major portion of the financial structure.

This financial condition usually is expressed in terms of a ratio of debt to value of stock. When the amount borrowed from stockholders is more than the value of the outstanding stock or $2 of debt to $1 of equity capital the capitalization is usually considered to be "thin" (i.e., the corporation has too much outstanding to stockholders in fixed obligations in relation to the equity capital it controls).

Thin capitalization is likely to become a problem that is peculiar to a closely held corporation. It is practically impossible for the hundreds of stockholders in a publicly held corporation to hold debt in high proportion to the value of their stocks.

Certain shareholder loans, if they do not constitute thin capitalization, are not only valid but highly advantageous to the shareholders. As noted, interest on the debt is similar to a dividend from the economic point of view, and yet it is a deductible business expense of the corporation for tax purposes. Secondly, the creditor status of shareholders puts them in a prior security position with other creditors of the corporation in the event of bankruptcy or dissolution. Thirdly, the repayment of principal on a debt is a non-taxable return of capital. The repayment also channels surplus funds out of the corporation into the hands of shareholder-creditors, without a corporate tax on the distribution as is true of a dividend.

Most of the private credit sources for unincorporated farm businesses are also available to farm corporations. However, some types of loans available to individual farmers from government sponsored credit agencies are limited or unavailable to farm corporations. Federal Land Bank loans are available to farm corporations only when at least 75 percent of the value and shares of stock are owned by individuals actually engaged in farming the mortgaged enterprise, and these owners assume personal liability for the loan. Similar limitations apply to Production Credit Association loans. Neither Farmers Home Administration real-estate nor operating loans are available to farm corporations.

As bankers and other private lenders become familiar with corporate farm enterprises, debt capital will become more readily available to them. Formal public solicitation of debt capital can provide additional funds for farm corporations, but, similar to the solicitation of equity capital, as noted below, the cost may be prohibitive.

The source and type of farm corporate capital depend upon the goals and needs of the enterprise. After these have been determined, obtaining funds is a matter of salesmanship. The investors in farm corporate bonds and mortgages have a more secure position with respect to risk and uncertainty than the investor in shares (equities). However, the debt security holder does not have the advantage of profiting through firm growth and expansion as does the equity holder.

Use of Corporate Farm to Attract Public Capital*

Formal solicitation of outside capital from the public in general is substantially limited by the size of the business. For the small firm, the cost of obtaining equity capital publicly may be prohibitive. The Securities and Exchange Commission found that the cost of floating an issue of publicly registered common stocks of less than $1,000,000 was more than 20 percent of the amount sold.

With investments in adequate farm business units ranging from $60,000 to $120,000, depending upon type of major enterprise, $1,000,000 would finance only eight to 16 units, which would not be sufficient to justify hiring a well-trained farm manager to exercise general supervision over leases and to consult with the operators (who may be tenant-shareholders or contract purchasers of their farms). At least 50 family farm units would be needed for a publicly held financing corporation to operate efficiently, and $3,000,000 to $6,000,000 would be required to finance them.

As yet, farmers have used the corporate form to acquire public equity capital very little. In a 1963 study of Missouri farm corporations, only one of 60 could be termed as publicly held, and it did not sell stocks on a public exchange.

Advantages and Disadvantages of Farm Incorporation

There are certain advantages and disadvantages to any form of business organization. This is equally true of farm corporations.

The advantages most commonly referred to are: (1) limited liability of shareholders, (2) continuity of operation, (3) financing advantage, (4) employee "fringe" benefits for shareholder-operators, (5) easier intergeneration transfer, and (6) possible tax advantages.

Disadvantages are (1) initial costs of incorporation and annual fees, (2) increased formality of organization and extra bookwork, (3) more complex tax planning, (4) possible "locking in" of minority shareholders, and (5) problems in dissolutions.

Limited liability and continuity of operation will not be discussed here.* The other advantages and disadvantages are discussed in more detail below.

* See Elefson and Miller, *Equity Financing in Agriculture,* Missouri Research Bulletin No. 714 (1959) for a detailed discussion of a financing plan of this type.

Taxation Advantages and Problems

The corporate method of taxation may or may not be an advantage depending upon the income structure of the enterprise. In 1964, if the farm corporation was taxed as a regular business company the rate was 22 percent on the first $25,000 of taxable income with a surtax of 28 percent on the amount of taxable income exceeding $25,000. Beginning in 1965, the tax rate is scheduled to drop to 22 percent on the first $25,000 taxable income with a surtax of 26 percent on all taxable income exceeding $25,000. When the net earnings are distributed as dividends they are taxed to the shareholders at the recipients' individual tax rates.

In 1958, Congress gave certain small businesses relief from these corporate tax rates by passing the Subchapter S Technical Amendment to the Internal Revenue Code of 1954. This section provides that certain "small business corporations" may elect to report Federal income tax as do partnerships. Most family-owned farm corporations

can qualify for this election and thereby avoid double taxation of corporate income. This election can be taken only by domestic corporations which: (1) have one class of stock, (2) have no more than ten shareholders, (3) have no shareholder, other than an estate, which is not an individual, and (4) have no shareholder who is a nonresident alien. Such an election means that for tax purposes the shareholders divide the income and the expenses from the enterprise in the same manner that the partners of a partnership would share them.

The election to be taxed as a partnership requires the consent of all shareholders and is effective for all succeeding taxable years unless properly terminated. The advisability of this election depends upon such factors as the number of owners, the income for both the corporation and its shareholders (current and anticipated), and the likelihood of dividends.

Only long-range tax planning can supply the information needed for an objective evaluation of this election by a corporation. However, a few basic considerations can be presented.

If the shareholders' individual tax rates are higher than the corporate rate, the business probably should choose to be taxed as a regular corporation. This is particularly advantageous if dividends are not declared. Further, the corporate tax rate can be held under 22 percent, i.e., held to less than $25,000 net profits, either by "plowing back" most of the income into expenses for expansion, or by paying higher salaries.

Salaries are a deductible expense to the corporation. However, the law requires that salaries and wages be reasonable in amount and related to the services actually rendered. Of course, if a shareholder is already in a high tax bracket, extra salary will only shift the tax burden from the corporation to that shareholder. Corporate earnings can be paid out as salaries, up to the amount where the personal tax rate of the recipient equals the corporate rate, thereby minimizing the total tax burden.

In regard to cash accumulations in the corporation, care must be taken that they do not exceed $100,000. Above this amount, accumulations must be reasonably related to the business, or be subjected to an extra tax of 27.5 to 38.5 percent. Even where dividends are paid, double taxation is partially avoided by the income credit on individual taxes.

In 1963 interviews with representatives of 28 farm corporations in Missouri indicated that 17 such firms were being taxed as regular business corporations and 11 as small businesses under Subchapter S. Almost without exception, those being taxed under Subchapter S had chosen this method because the shareholders' individual tax brackets were well above the beginning corporate bracket. There was a significant correlation between size of enterprise and method of taxation. Where corporate gross income was large, e.g., from $100,000 to $500,000, the trend was to pay high salaries and expenses and to avoid double taxation by retaining the corporate income in the business, either as cash accumulations or as reserves for expansion. Only four of the 17 farm businesses that were taxed as regular business corporations declared dividends regularly. Most of the corporations with good incomes were growing rapidly.

Intergeneration Transfer Advantages

One of the important advantages of incorporating a business is the ease of distributing assets from owner to owner. Items such as land, buildings, equipment, livestock and supplies may be transferred to the corporation in exchange for shares of stock. Ownership of the business is vested in the shareholders as evidenced by certificates of shares. If a corporation issued 1,000 shares, four equal owners each would receive 250 shares. Each block of shares would represent an equal interest in the entire business and not in particular property items. Division of ownership through the use of shares can be made easily, whereas equitable division of specific property items often is difficult.

The passage of ownership of a farm business to a younger generation is a problem that confronts almost all farm owners at least once in their lifetime. The nature of this transfer is important to the continued adequacy of capitalization of the business. Farm owners have several alternatives: (1) they can fail to prepare for transfer and at death the property will pass to the heirs according to the state inheritance law; (2) they can make a will to transfer the property to whomever they chose; (3) they can sell or give their property to somebody before death; or (4) they can use a combination of these alternatives. Regardless of method, a problem arises in the determination of what specific item or items are to be transferred, and to whom, when more than one heir is involved.

It generally is not desirable or economically practical to divide the family farm into several units. Interests vary and some members of the family may have contributed much more to the business than others. For example, one of the children may have remained on the farm and worked while the others entered other professions. While it is economically desirable that the farm be owned by one or two persons, cash may not be available to purchase the other heirs' interests, or to provide them with a cash inheritance.

One solution may be the outright transfer of the farm to the logical successor during the lifetime of the parents. However, this procedure may impair the security of the transferors and subject them to heavy gift tax liability.

The problem can be solved by gradual transfer of stock through sale, or by providing in a written will for transfer of specific numbers of shares to individuals—all without physically dividing, breaking up or disrupting the farm business enterprise. An off-farm stockholder can

share in ownership with those who remain on the land. Those who contribute most to the business can be adequately compensated through salary as a officer and/or manager of the corporation. After payment of expenses, including salaries to officers and employees, the remaining income can be distributed to shareholders in relation to the amount of stock owned. In this manner a son on the farm shares in the income with the other owners in proper relationship to his holdings and the labor he contributes to the business.

Through incorporation, the bulk of the farm business gradually can be transferred to the next generation. Heirs who should receive them can be given a few shares each year. This procedure permits: (1) the continuance of an adequate farm unit, (2) the successors to acquire a well-organized business at an earlier age, (3) the transferors to remain secure by retaining control over the farm, i.e., by retaining at least 51 percent of the total stock outstanding.

Neither the corporate structure nor the ownership of shares of stock offers any special freedom from death taxes or gift taxes. However, the ease of transfer of stock may facilitate some tax-saving plans. Corporate stock, like any other property, is subject to Federal estate and state inheritance taxes on the death of the owner. However, the number of shares owned at death can be reduced through sale or gift. This will reduce tax liability since the shares of stock are valued at death for tax purposes. The Federal Internal Revenue Code permits one-half of an estate to pass free of tax to a surviving spouse. Secondly, every decedent's estate is entitled to $60,000 exemption from Federal estate tax liability.

Gifts of stock often can be made to reduce taxes at death. The gift tax rates are exactly three-fourths of those applicable to estate taxes. Therefore, there is an advantage, subject to certain limitations, in transferring property by gift prior to death. The Federal law permits gifts of $3,000 a year to each beneficiary free of taxation. If the gift is donated jointly by a husband and wife, the exemption is $6,000 a year per donee (recipient). In addition, each person is entitled to make other tax-free gifts totaling $30,000 at any time during his lifetime. This becomes $60,000 in case of joint gifts made by husband and wife. This is true even though only one spouse owned the property given. The value of property in excess of these allowances is subject to Federal gift tax liability.

Incorporation makes the transfer of an estate much more flexible. This advantage weighs heavily in its favor.

Financing Advantages

Inadequate capital for current financing or for expansion limits the efficiency with which farms are operated. The average investment in good Missouri farm businesses in 1962 was $125,211. Investments varied with the type of principal enterprise. The averages by type ranged from $81,708 on hog farms to $198,141 on beef farms. The corporate organization, by bringing together relatively large amounts of capital under a single, unified control through the sale of stock can consolidate inadequate operating units into adequate businesses that can be made available to good operators under favorable leases.

Corporations organized for the purpose of providing adequate capital for efficient farm businesses could be publicly held. This procedure could be used to permit a young farmer to start as a tenant with an adequate business. As a result, he could begin accumulating capital from the outset and begin buying into the business. If properly organized, his surplus could be invested in shares of stock in his particular farm and passed on to his successor without tearing the business apart and rebuilding it. (See "Equity Financing in Agriculture," referred to on page 6, for a detailed discussion of this plan).

There are several reasons for increased financial strength through incorporation. First, a corporation continues to function even though an owner (shareholder) leaves the organization. There is continuity of operation. Secondly, lenders and investors prefer to deal with the type of unified and business-like management that they expect to find in a corporation. Thirdly, the credit of a corporation is not imparied by the individual liabilities of the shareholders.

A corporation permits pooling of assets from various sources. Persons who cannot farm actively (e.g., urban relatives, friends of a farm family or retired farmers) can invest or retain a financial interest in the farm business. Further, two or more farm families, who individually may not have enough capital to farm efficiently, can pool their assets and buy many items that can be used by the group.

A Missouri farm corporation which was organized in the 1920s is an example. At present, the remaining original stockholders share ownership with children and grandchildren. Through incorporation, a 3,000 acre unit has been built up and kept intact. One of the original members of the firm said:

"Our corporation can make efficient use of machinery and equipment that would be too expensive to own for an individual who had 400 or 500 acres. Examples are a dragline used in digging and maintaining the drainage ditches, a motor grader, and a completely electrified grain handling and storage system."

Three of the seven shareholders in the firm are professional men and take no part in the management of the business

Employee Fringe Benefits

As noted, shareholders can be employees of their corporations, usually in the capacity of director or officer, and may be eligible for one or more of the following benefits:

Employee Retirement: A retirement or pension plan that qualifies under the Internal Revenue Service rules allows current contributions to the plan to be deducted as an expense by the corporation. The employees then are taxed only on the income paid out to them on retirement at their ordinary income rate in the year received. A farm corporation may have a pension plan that requires a fixed contribution each year or a profit-sharing plan which provides for employee sharing in corporate profits, according to a predetermined formula. Under a qualified plan, a corporation may deduct up to 15 percent of total employee compensation during the taxable year.

Medical Care: Employees can receive tax-free medical benefits and sick pay up to 100 percent of the cost. Employees may also receive up to $100 a week in compensation, free from income tax, under corporation accident and health plans. These are deductible expense items to the corporation.

Insurance: The corporation can deduct as an expense the premium payments under a group life insurance plan, provided no incidents of ownership are retained. The premiums are not taxable to employees. At death, the estate or beneficiary can receive up to $5,000 free from income tax.

Social Security: Shareholder-employees are subject to social security taxes as employees, not as self-employed farmers. This provision makes the total tax higher than an individual's self-employment tax. However, the corporation can provide a fixed salary for a social security base, in contrast to the variable nature of self-employment income.

Disadvantages of Initial and Recurring Costs

The total initial fee for filing an application to reserve a corporate name, the Articles of Incorporation, and other necessary reports is approximately $25 in Missouri. The initial license fee, franchise tax, and federal stamp tax will generally total at least $200 for adequately capitalized businesses. Legal services for setting up the corporation usually cost another $200. The total cost of incorporation will average between $400 and $500. In the study of 28 Missouri farm corporations, the average cost was just under $400. Most of these businesses had been incorporated during the past six years. The present cost would likely be a little higher.

There is a federal stamp tax on the issuance of shares of stock. Almost without exception, a sale, agreement to sell, or gift transfer of shares, subsequent to the original issue, is subject to the federal stamp transfer tax.

Certain recurring costs attach to the corporate existence. When there is an increase in stated capital or in paid-in surplus, a report must be filed and an additional license fee and franchise tax must be paid on the capital increase. The farm corporation is also subject to an annual capital stock tax. However, since the assets usually are in the form of tangible items such as land, buildings, and equipment which are assessed locally, this tax usually is small.

Problems of Organization, Formality and Extra Bookwork

Missouri law must be followed in operating a corporation. The management must be handled by shareholders, directors, and officers; each performing the duties and exercising the powers granted him by the law.

The Articles of Incorporation must be completed in detail and properly filed. The shareholders must meet to elect the board of directors and adopt by-laws defining their powers and duties. The directors must meet and appoint officers, determine corporate policies and practices, and begin business.

The law requires that reports be filed with the state when certain changes occur in the corporate structure such as increasing the capitalization, amending the Articles of Incorporation, or issuing additional shares. Further, an annual report of business and an annual anti-trust affidavit must be filed with the Secretary of State.

A corporation is required to keep an accurate and complete set of records. These include accounts of business transactions, minutes of shareholder and board of director meetings, and the names and addresses of shareholders with the number and class of stock held by each.

Possible "Locking in" of Minority Shareholders

A minority shareholder may wish to withdraw from the corporation, either because of disagreement over policy or because he has a better investment opportunity elsewhere. Unless provision is made for the purchase of his shares at a fair market value, he may have a relatively

unmarketable block of stock. Situations of this kind easily can arise with small corporations whose stocks are not listed on organized exchanges and not traded regularly over the counter.

The disadvantage of being locked in may be alleviated through the use of certain precautionary measures. First, adequate protection of minority rights should be provided for in the corporate by-laws. Secondly, provision should be made for the equitable settlement of policy disputes. Thirdly, a binding buy-sell stock agreement can provide a satisfactory means for the withdrawal of a minority shareholder. Such an agreement can require the majority shareholders to buy the withdrawing member's stock either in the event of deadlock or voluntary withdrawal. There are, however, many practical drawbacks to such an agreement.

In many cases, an impasse among the minority and majority shareholders may dictate dissolution of the corporation as the only practical solution. The procedure required for liquidation is technical and requires attention to many details.

Problems in Dissolutions

The corporation receives its authority to carry on business directly from the state. Therefore, only the state can authorize cancellation of its existence. Under the Missouri statutes, a corporation may be dissolved either voluntarily or involuntarily.

The corporation may be *involutarily* dissolved by a decree of a court of equity upon information filed by the Attorney General if one of the following facts is proven: (1) the franchise was obtained through fraud, (2) the corporation continually exceeds its legal authority, (3) the corporation has failed to file an annual report or has failed to register annually with the Secretary of State. The corporation can also be involuntarily dissolved by a court of equity which has liquidated the assets of the business and brought about such involuntary dissolution as a result of a shareholder or creditor law suit.

The Missouri Corporation law provides for two methods of *voluntary* dissolution: first, by unanimous consent and agreement of the holders of all the outstanding shares without a meeting of the shareholders and, secondly, by action taken at a stockholder's meeting by the shareholders entitled to vote. To qualify for dissolution under the latter provision it is necessary that two-thirds of the shareholders entitled to vote favor the action.

Regardless of the voluntary method used, it is necessary to execute and file Articles of Dissolution with the Secretary of State. These articles constitute, on the part of the corporation, a declaration of its intention to dissolve.

After the Articles are filed, the corporation must cease business, except for the necessary winding up of its affairs. There is no time fixed in the law for completing the liquidation. However, after the intention to dissolve has been accepted by the Secretary of State, it is necessary for the corporation immediately to notify, by mail, each of its known creditors. The debts and obligations of the corporation must be paid or discharged, or adequate provision made to do so before any distribution of assets can be made to the shareholders. Distribution among the shareholders can be made in cash or in kind.

After completion of the liquidation, the corporation must execute and file Articles of Liquidation with the Secretary of State. Upon satisfaction that the corporate affairs have been properly terminated, the Secretary of State must issue his Certificate of Dissolution upon which the existence of the corporation ceases.

As a final step in voluntary dissolution, the corporation is required to file in the office of the proper County Recorder of Deeds a copy of the Articles of Dissolution and Liquidation, and a certified copy of the Certificate of Dissolution which was received from the Secretary of State.

In a family type corporation, dissolution by mutual consent is the most common. Involuntary dissolution upon suit either by the Attorney General or an aggrieved shareholder or creditor is the exception.

Bibliography

Beck, Robert, and Philip M. Raup. *Incorporating the Farm Business*. Station Bulletin 461, University of Minnesota, 1962.

Eckhardt, August G., "Family Farm Corporations," *1960 Wis. L. Rev. 555* (July 1960).

————, "Should the Farmer Incorporate?" *The Practical Lawyer Magazine,* p. 62, 1962.

Elefson, Don O., and Frank Miller, *Equity Financing in Agriculture,* Research Bulletin 714, University of Missouri, 1959.

Family Farm Corporation Seminar, Agricultural Law Center, State University of Iowa, Iowa City, Iowa, 1960.

The Farm Corporation, North Central Regional Extension Publication No. 11, Pamphlet 273, CES, Iowa State University, Ames, Iowa, 1960.

French, Bartfeld, Pine and Logan, *What About Incorporating Farms in Kansas,* Circular 376, Kansas State University, 1960.

Hammonds, "Corporation or Partnership: Tax Considerations," *36 Taxes 9* (1958).

Harl, Neil E., John F. Timmons, and John C. O'Byrne, *Farm Corporations*. Agricultural Law Center, Iowa City, Iowa, 1960.

————, "Incorporate the Family Farm?" *Iowa Farm Science,* Vol. 14, p. 92, (July 1959).

————, "Iowa Farm Corporations," *Iowa Farm Science*. Vol. 15, p. 13 (August 1960).

Hill, E. B., *Should We Incorporate the Farm Business,* Extension Bulletin 371, Michigan State University, 1959.

Hubbard, Dean W., "The Incorporation of Farms and Ranches," *Journal of Farm Economics,* Vol. XLII, p. 1498, No. 5, December 1960.

————, and Grant E. Blanch, *The Farm-Ranch Corporation,* Station Bulletin 576, Oregon State University, February 1961.

"Incorporating the Farm Business," *43 Minn. L. Rev. 305* (1958), University of Minnesota.

Krausz, N. G. P., "Corporate Organization of Family Farms," *'ournal of Farm Economics,*Vol. XL, p. 1624, No. 4, December 1958.

————, and Fred L. Mann, *Corporations in the Farm Business,* Research Circular 797, University of Illinois, 1960.

Malthus, T.R., *Essay on the Principles of Population*. J. M. Dent & Sons, London, 1798.

Mann, Fred L., *Agricultural Law in Missouri*. Lucas Bros. Publishers, Columbia, Missouri, 1961.

————, *A Comparative Study of Laws Relating to Low-Equity Transfers of Farm Real Estate in the North Central Region*. Research Bulletin 782, University of Missouri, October, 1961.

Miller, Frank, *Economic and Marketing Information,* Vol. VI, No. 9, University of Missouri, December 1961.

Missouri Revised Statutes §351.000-351.720, 1959.

Naatjes, Clarence S., and Russell L. Berry, *Corporation Farms in South Dakota,* South Dakota State College, 1962.

Nance, Gordon B., *Changes in Missouri Farming,* Research Bulletin 773, University of Missouri, 1961.

Parson, Ruben L., *Conserving American Resources,* Prentice-Hall, 1956.

Petrie, "Considerations When Incorporating the Family Farm," *39 Neb. L. Rev. 547* (1960).

Sarner, "Choosing the Form of Organization," *8 Kan. L. Rev. 522* (1960).

Shoemaker, "Incorporation of Family Agricultural Businesses," *30 Rocky Mt. L. Rev. 401* (1958).

Smith, Robert S., *Incorporation of the Farm Business*. A. E. 831, Cornell University, 1953.

Strasner, Stuart B., "Agricultural Corporations in Oklahoma," *16 Okla. L. Rev. 161* (1963).

Timmons, John F., and Neil E. Harl, "Incorporation of Farms: Advantages and Disadvantages," *Journal of the American Society of Farm Managers and Rural Appraisers*, 1960.

Weaver, "Let's Incorporate Blackacre," *46 A. B. A. J. 710* (1960).

Which Form of Business for Your Farm? Extension Circular 174, North Carolina State College, Raleigh, N. C., 1959.