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Estate Planning for Farmers May Be Overdue

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Looking back over the last two years has seen a lot of changes to estate tax laws. First, we went into 2010 with something I never thought we would see – “a zero estate tax”. Then, after much speculation we learned we did have a step up basis but only \$3 million to a spouse and \$1.3 million for others. Then, let’s add a new concept – “portability” into the language (which is allowing married couples to add any unused portion of the estate tax exemption of the first spouse to die to the surviving spouse’s estate tax exemption). Then, let’s consider current rules only cover 2011 and 2012 years, so we need some new legislation for 2013. Then to top it all off, look at what farmer’s taxable estate is now considering land has increased 50% or more in value since 2009.

I do not profess to know all the answers in estate planning, that is why with my clients we use the “team approach”. Let’s have a round table discussion with the farmer and his wife, an attorney, an FBFBM field staff and maybe a CPA depending on the complexity of the farming business. This is most conducive for getting answers and ideas thrown out with the first meeting. Attorneys should know the law, FBFBM staff is an advocate of the family business expertise that the farmer possesses and all the financial economic numbers that are needed. The CPA would be necessary for available discounting and entity issues in very complex realms.

The basics of estate planning are the same whether you are a farmer or not and I found this website very good on education: wills.about.com. It can answer questions like:

1. Do I need a will?
2. Is it a good thing that all my land (real estate) is in joint tenancy?
3. What is probate? (Do I need a living trust?)
4. Who gets my assets if I don’t have a will? (What do you mean, my wife does not get everything?)

Now let’s consider when action needs to be done on estate planning. It is needed if.....

1. You do not have a will, or if it is more than three years old.
2. You have assets greater than liabilities of \$2 million or more. Remember, Illinois has an inheritance tax starting at \$2 million. It is just not a federal issue!
3. You do not have assets divided out between you and your spouse, or you never had a plan.
4. You are only leaving assets to your spouse and letting her deal with the children.

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5. You have a farming heir or maybe will have one someday.
6. You own land!
7. You have a corporation, partnership, trust, LLC or FLP.
8. You have a special needs child or heirs that you want to specially provide for.
9. You want to leave your family with less stress, good harmony and able to love one another in the family for years to come.
10. 1You finally came to the conclusion that you are not immortal.