

PIFF Newsletter

Special Edition: Succession Planning

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Welcome to PIFF!

The Purdue Initiative for Family Firms (PIFF) is an initiative in Purdue’s College of Agriculture. PIFF is an integrated research, outreach, and teaching program. It offers educational programs that address the major competencies needed for effective family business ownership and management. The goal of the initiative is to prepare family business stakeholders—strategically, financially, and emotionally—for the significant and sometimes unpredictable transitions and decisions that must be made, which determine the success and continuity of the family business.

PIFF provides multi-generational family businesses with research-based business management resources aimed at improving personal leadership performance and driving operational growth. Our ambition is to prepare family business owners, managers, and stakeholders (including non-owner spouses and future owners) to be effective stewards of their family enterprises.

PIFF publishes a quarterly newsletter that will house an article from each part of the pie, found on our website – purdue.ag/piff. The four quarters

of the pie include topics of: estate and personal financial planning, strategic business planning, maintaining family bonds, and leadership and succession planning. Each section houses articles, guides, and assessments of related topics which can be viewed online or downloaded.

Also found on the website is a *Question of the Month*, PIFF Research, an option to subscribe to our quarterly newsletter, and upcoming events.



The Purdue Succession Planning Team

This special edition of the PIFF Quarterly Newsletter focuses solely on succession planning within farm and family businesses. Authors in this newsletter are members of the Purdue Succession Planning Team. Read about the team below and visit this [website](#) to learn more!

Cultivating Strong Indiana Farm Families through the Succession Planning Process by Providing Educational Opportunities and Current Resources

The Purdue Succession Planning Team, comprised of Extension Educators and Specialists, was formed in 2011 to address the needs of families planning the continuation of farm businesses. The team mission is to cultivate strong Indiana farm families through the succession planning process by providing educational opportunities and current resources.

The team currently offers programming in three areas: Regional Workshops, an Introduction to Succession Planning Presentation and Farm Family Visits.

Regional Workshops

The team coordinates winter workshops held regionally across Indiana (attendees may be charged a fee). These workshops cover various topic areas including:

- ⇒ Beginning succession planning steps
- ⇒ Financial skills
- ⇒ Communication strategies
- ⇒ Business structures
- ⇒ Risk management tools
- ⇒ Options for asset transfer to the next generation
- ⇒ Management transfer plans

Workshop presenters include experienced professionals (i.e., attorneys and accountants),

Extension specialists and Extension Educators. Team members may also hold family meetings with the workshop attendees to help them move forward with the next steps of their succession plans. Fees charged for these workshops have been lowered due to grant funding provided by the North Central Extension Risk Management Education Center.

Introduction to Succession Planning Presentation

Team members may deliver short presentations (approximately one hour in length) at educational workshops and other venues. The presentation covers basic steps and considerations for succession planning including:

- ⇒ Estate/succession planning definitions
- ⇒ Recent research studies
- ⇒ Feasibility of adding a family member
- ⇒ Elements of a family business
- ⇒ Options for business structures
- ⇒ Human resource risks
- ⇒ Management succession

Farm Family Visits

Families seeking advice on preparing succession plans can contact team members to schedule a family meeting of approximately one hour in length. These meetings can provide assistance with the succession planning process. The team members can advise families on preparing for meetings with accountants and attorneys. Note that a mileage fee may be charged for these meetings depending on the distance traveled by team members.

A succession advisory team is comprised of individuals that provide valuable knowledge and experiences to farm and family businesses, related to their areas of expertise. These individuals include farmers, bankers, accountants, lawyers, financial advisors, and family members. The overall goal of the team is to assist the farm or business owner(s) with the transition of the business to the next generation. This includes helping owners find solutions to critical challenges, correcting performance deficiencies, and improving their quality of life by keeping in mind the need for overall satisfaction and success in the transfer of the business.

Why have a team?

A succession advisory team exists to endorse the owner's plan of action, assist in the decision-making process, and build the confidence of the owner(s). All team members are able to provide multiple perspectives based on their expertise and experience, which in turn provides an array of solutions available to the owner(s). The team is then able to decide upon alternative approaches to the plan of action. Uniting a team that is working together as a cohesive unit to achieve specific, shared goals can result in a successful business for years to come.

A succession advisory team should have the following qualities:

1. Efficient use of time and resources
2. Complementary expertise
3. Confidence and reinforcement of action and procedures
4. Communication and mentoring of the successor
5. Positive peer pressure to find solution and meet team goals
6. Monitoring performance of team members

An effective team will go through the following stages at different paces and in different ways:

1. Forming (Getting acquainted, learning team goals and tasks, identifying a leader)
2. Storming (High emotion, some grumbling, some doubts emerge, pushing ahead despite differences of opinion)
3. Norming (Functioning cooperatively, establishing norms, hostility ceases, detailed goals completed, sense of closeness and successes)
4. Total Integration (Conflict is rational, major successes continue, creative tension reappears, successes are widely recognized, team is well-organized and efficient)
5. Dissolution (mission accomplished)

The payoff can justify the effort it takes to cultivate an advisory team.

1. Have urgency.
2. Pay particular attention to early planning actions.
3. Schedule team meetings, start on time, have agendas.
4. Make SMART (specific, measurable, achievable, relevant and time-bound) goals.
5. Challenge each other with new information.
6. Care about the welfare of the other team members.
7. Create positive feedback, recognition, and reward.

Succession advisory teams help owners make better, more informed decisions.

Introduction

For many people, the term “estate planning” brings to mind preparing plans for the transfer of property at the time of a person’s death. While transfers of property at the time of death is an important consideration, the decisions we make at the time we are accumulating property, the gifts we receive and make during our lifetime, and the plans we put in place if we become disabled are also part of a comprehensive estate plan.

Over the years, various tools have developed to help a person express and execute their desires regarding who will be involved in decision making and executing a person’s wishes if they become incapacitated or die. These tools have been developed to provide a common procedure for several people. Trusts are an example of this type of tool. Many people want to avoid the time, cost, and public examination associated with the probate process. Using trusts is one way to do this.

Other tools arise from revisions to laws associated with estate, gift, and income taxes. An example of this is the creation of the deceased spouse’s unused exclusion amount (DSUEA) in the Tax Reform Act of 2010. Today this is commonly referred to as exemption portability, the ability to transfer the unused amount of the lifetime estate tax credit to the surviving spouse.

This article provides a condensed description of some common tools available today for postponing or eliminating estate taxes, transferring property to survivors, and appointing the people responsible for protecting your interests. What general tools are available to help us structure our estate plan?

The Tools

Let’s start with the **estate tax credit**. The 2018 Tax Cuts and Jobs Act (TCJA) increased the estate tax credit to \$4,417,800 for 2018 and indexed this credit for inflation, which is likely to increase the size of the credit each year. This credit shields \$11,180,000 of taxable estate asset value. Each taxpayer receives this credit, so for a married couple this means an estate of \$22,360,000 avoids estate taxes if each spouse owned one-half of the estate. This credit is large enough to remove concern about the need to pay estate taxes for the majority of estates. However, this provision, like many of the other provisions in the TCJA is only temporary and is set to expire January 1, 2026.

Related to the estate tax credit is the **portability** of the individual tax credit. If the first spouse does not have an estate large enough to use their entire credit, there is a deceased spouse’s unused exemption amount available to pass to the surviving spouse. The transfer of the unused credit is accomplished by making an election on the estate tax return of the deceased spouse. Portability is a permeant but the ported amount available for use can be influenced if the surviving spouse should remarry.

Gifts are a way to transfer property to other people while the donor is still living. Giving away property is one way to reduce the size of an estate. A gift implies that the full rights associated with property are transferred from the Donor to the Donee. If the Donor imposes limitations or restrictions on the gift the transfer may not qualify as a gift and could be pulled back into the Donor’s estate at the time of their death.

While gifts are not subject to estate taxes, they are subject to gift taxes. Gift taxes are typically paid by the Donor. As with estate taxes, there are procedures that allow a significant amount of property to be transferred gift tax free. One of these tools is the annual exclusion. Gifts made to a donee of \$15,000 or less are excluded from gift taxes. If a donor were to give 10 different donees a \$15,000 gift tax free, the total tax-free transfer would be \$150,000. A person can make a gift to as many donees as they desire.

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(continued from page 4) The donor has the ability to give these tax free gifts every year. A gift larger than \$15,000 to any one donee is a taxable gift, but that does not mean the donor will need to pay a gift tax. The reason no gift tax may be due is the lifetime gift tax credit of \$4,417,800 set in the 2018 TCJA. As with the estate tax credit, the gift tax credit is indexed for inflation, expires January 1, 2026, and allows \$11,180,000 of property to be gifted before gift taxes will need to be paid.

While we all have a general idea about the definition of a gift, the law is more specific. Dalton and Langdon (2018) indicate the elements of a gift include:

1. The donor must have the intent to make a donative voluntary transfer.
2. The donor must be competent to make the gift.
3. The donee must be capable of receiving the gift. This leaves out direct transfers to minors, but as long as guardian arrangements have been made for the minor gifts can still be made.
4. The donee must take delivery.
5. The donor must actually part with the dominium and control over the gifted property.

The **Unlimited Marital Deduction** is available to a married couple that are U.S. citizens. This is a deduction from the value of the gross estate for property transferred directly to a spouse. The property transferred to a spouse under the marital deduction must be included in the surviving spouse's estate. As a result, this tool only postpones the date in which the estate tax will be paid.

Property titles directly influence what happens on the death of an owner. If property is held in Sole Ownership/Fee Simple or as tenancy in common, the owner must provide instructions for the transfer of the property in a will or the property is transferred in accordance with the laws of the state in which the decedent lived. In order to provide a clear title, the property will go through probate. If property is held as joint tenancy with right of survivorship or tenancy by the entirety, the property will transfer on death of the owner to the remaining owners. In the case of joint tenancy, the owners do not need to be related, but the owners have equal shares. The owners under tenancy by the entirety must be a married couple. For joint tenancy and tenancy by the entirety, going through probate is not a requirement. This saves the time and cost of the probate process.

A **will** is a core document of most estate plans. A few items often found in a will include:

1. Specific bequests - Instructions of how to dispose of specific items of property.
2. General guidelines for property disposal – Addresses how to dispose of various classes of property like tangible personal property or real property. This is similar to the specific bequests, but the heirs or the executor may play a role in deciding exactly how individual items in the group are distributed to specific individuals.
3. Appointment of Executor – This indicates the person responsible for executing the instructions contained in a will. This person is also responsible for making sure that any creditors are paid. The will may also define the extent of the executor's powers.
4. Guardianship of minors – This identifies an individual or individuals to raise minor children. Including this provision, relieves the court from the need to determine appropriate guardians.
5. Tax appointment – Directs which assets will be used to pay debts and estate taxes if there are any.
6. Disclaimer instructions – Reminds the heirs that they can disclaim any bequest and describes the procedures to follow if property bequests are disclaimed.
7. A survivorship requirement – This requirement indicates the beneficiary/heir must survive the decedent for a specified period of time to receive a bequest. This helps to avoid the expense of two probate proceedings including identical assets.

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A **Side Instruction Letter** may accompany a will. This is the place to express wishes about the disposition of specific tangible possessions, provide wishes about funeral arrangements, burial, and other wishes the deceased may wish to convey to the heirs. Since these items are not in the will, these instructions are not binding on the probate process.

The next PIFF Newsletter, Spring Edition 2019, will cover more tools associated with estate planning. Some of these upcoming tools are: trusts, life insurance, and powers of attorney.

Power of Attorney: Why Do You Need One?

Renee Wiatt

Life can be unpredictable, both at work and within a family. Farm and family business owners often have many people who rely on them, both within the family and the business. Some problems will be predictable and easily alleviated. However, a variety of issues can quickly arise that make decision-making for an individual very difficult. Proper planning steps can help to mitigate some of this unpredictability.

Creating a Power of Attorney (POA) is a crucial step to assure that someone can make decisions for an individual if needed. Simply stated, a POA “is a legal document that grants authority to another person to manage your affairs on your behalf” (O’Rourke, 2012). POA’s are needed when someone is absent, incapable, ill, unable to speak, legally incompetent, or otherwise incapacitated.

POA’s must be drawn while the individual is still competent to appoint someone to be his or her representative, and are meant to serve throughout the time when a person cannot handle his or her own affairs. The person being represented is referred to as the “principal” and the individual who has been appointed authority is referred to as the “attorney-in-fact”. POA’s can either be plenary (general) or express (specific). Plenary denotes that the attorney-in-fact has complete authority over financial, health, legal or other matters. Express denotes that the attorney-in-fact has precise, restricted authority over specific situations. It is important to note that POA’s can be revoked when someone regains competency.

Most of the time, POA’s are used for business and financial decisions, such as selling property, paying debts, and maintaining bank and other financial accounts. Provision can guide when the POA takes effect, such as immediately, on a certain date, given a certain condition, or as directed by a physician.

Medical POA’s are directives strictly pertaining to medical decisions. HIPPA laws prohibit medical professionals from freely giving a patient’s medical information out, regardless if they are family or not. However, with a medical POA in place, you can designate permissions for discussion of your medical information. With a medical POA, you can efficiently designate who can get information from medical providers and who can make decisions on your behalf.

As a note, POA’s can be very flexible and made to fit your exact situation. For example, your spouse can be your POA but you can also designate others as well. In the event that both you and your spouse are incompetent or incapacitated, designating another individual or individuals could grant some assurance that your wishes are carried out, regardless of the scenario.

You can start the POA process by consulting an attorney that you trust. Once the document is finalized, the attorney-in-fact should be notified and given multiple copies. Lastly, your family and others close to you should be informed where to find the documents so that they can act quickly in your time of need.

According to the 2012 *USDA Census of Agriculture*, during the past 30 years, the average age of U.S. farmers has grown by nearly eight years, from roughly 50 years to 58 years of age. Reports show that older adults are more prevalent in agriculture than in any other occupation. The fastest growing group of farm operators represents those 65 years and older. As we look to the future for farmers, our focus lies in identifying challenges that this population faces, and paying close attention to farm safety while aging in place.

Using the Principles of Universal Design, the process of aging in place is aided with alternative designs, products, tools, and procedures. These designs can be implemented by all individuals, regardless of age and ability. The goal is to incorporate simplistic design elements in the home and on the farm to work better for everyone.

As we look at common challenges facing those working in a farm environment, we must address factors that make agricultural work dangerous. Personal and environmental factors, as well as the work activities completed on a daily basis, all pose a number of safety issues. The aging process can bring a whole host of issues when we think about mobility, hearing loss, diminished vision, chronic pain and respiratory issues. According to Maine AgrAbility, roughly one third of all farmers have reported having arthritis. Others report having chronic pain due to repetitive strain on muscles and joints.

Farmers of all ages are in danger of injury or death from falls. Common hazards include working at heights, tripping on uneven surfaces, and the possible side effects from medication or health conditions. In fact, falls are the most common type of accidental injury among farmers aged 55 and over. Furthermore, compared to younger farmers, those aged 75 years and older are more likely to die from a fall. There are simple safety measures that can help to drastically reduce this risk. Those working in a farm environment should exercise regularly, walk on even surfaces when possible, have his or her sight checked regularly, and make sure footwear fits well so shoes and boots do not become a trip hazard.

To reduce environmental risk, it is important to assess the environment for hazards:

- Look for height-related dangers and check areas where stumbling or slipping might occur.
- Install handrails on both sides of stairwells.
- Fit ladders and stairs with non-slip surfaces.
- Use florescent tape or paint to highlight steps, pathways, and rungs.
- Keep pathways and work areas clear of obstacles.
- Make sure to have adequate lighting for tasks and for walking pathways (solar lights can be an inexpensive and reliable option).

Other safety precautions include:

- Using protective gear at all times,
- Wearing a safety harness when working high off the ground,
- Driving vehicles slowly and carefully,
- Being aware of your surroundings, and
- Carefully following machinery-operating instructions.

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(continued from page 7) Dealing with change can be difficult and often expensive; the idea of Universal Design is to implement the design changes as natural modifications occur. For example, if one were going to be changing out a door or door handle, change them out with Universal Design in mind. Perhaps replace a manual door with an electric door opener. Or, change out a door knob for an “L-shaped” door handle. Rethink common farm operating procedures to streamline work, increase efficiency, and reduce wear and tear on the body. The goal is to prevent injury and promote independent living while keeping *everyone* safe.

Over the past several years, equipment design has become more user-friendly. Ergonomic designs have made manual work easier on the body. When replacing shovels or other hand-held farm equipment, look for designs meant to ease the workload. To keep everyone safe, remember to always read and follow machine safety decals, assure that guards and shields are in place, and use the SAFE STOP technique when parking or leaving machinery for any length of time.

Quality of life is an important consideration as we age. In order to continue to work and live comfortably within the farm environment, we need to be mindful of the way we work. Safety should be the number one priority for everyone living and working in a farm environment.

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