

OWNERSHIP OPTIONS

Until now in this guide, there has been a focus on examining the goals for the family, business health and a long-term plan for the farm. All play an extremely important role in determining what the family and business are ultimately trying to accomplish.

In the previous step you completed an assessment of the successor's ability to manage the operation they are ultimately going to receive. The Ownership Options topic, adapted from Saskatchewan Ministry of Agriculture *Estate Planning Checklist for Farm Families* publication, is designed to draw out questions and preliminary decisions on how the ownership of the business will be transferred to farming children. It is designed to help you make **preliminary** decisions on how, when and what farm assets (if any) will be transferred to non-farming children.

Your preliminary decisions will be tested financially in the following topic on financial performance. You may find yourself going back and forth between exercises and adjusting the ownership transition plan to better suit farm financial performance or your retirement needs. This is a perfectly acceptable approach to making a preliminary decision that you can then take to your advisors for their input.

There are five main areas to consider when making decisions about ownership transfer options:

1. Ownership – who will ultimately own the assets and when?
2. Control – who will ultimately control the assets and when?
3. Security – are you willing to put your assets at risk? What level of income do you need for your retirement?
4. Living arrangements – how will living arrangements be handled for both the retiring and succeeding generation?
5. Equal versus Equitable Treatment of Children – an equitable arrangement is not necessarily one that gives equal treatment to all children. In many situations, the farming child receives a greater value of assets but is required to take on the risk and stress of running the family business. This arrangement often lets the retiring generation remain associated with an active farm operation longer than would be the case if they did not have a succeeding generation ready to take over the farm. Each family's arrangement that they consider to be equitable will be unique to their family and completely different from others.

Why is this relevant?

The ownership options step will result in a preliminary plan to transfer ownership during your lifetime and/or through your estate. You can take your preliminary plan to your advisors for their review and suggestions.

Treat decisions made here as **preliminary** until discussions with your accountant, lawyer and investment or insurance advisors have taken place. Until the final details have been worked out with your advisors, you won't know what adjustments to your preliminary plan will be required.

How will this help transition planning?

- There are no easy answers to many of these questions. But thinking about them and writing down some initial thoughts can help in developing a preliminary plan.
- You will be meeting with your accountant, lawyer and possibly an insurance or investment advisor at some point. Having a preliminary plan developed that answers some or all of the questions above will be helpful. The questions listed above will be asked by your advisors so having thought about them in advance can be a real advantage.
- You will also at some point have discussions with your children about what you want to see happen. Having some preliminary thoughts written down will help the discussion.
- Being proactive with your planning can help to keep the transition moving forward and can help to lessen the potential for conflict.
- The following exercise is a checklist of items in each category that will help bring you to a preliminary decision regarding farm ownership transfer.

Instructions

This exercise is to be completed by the retiring generation with input from the farming children, if the retiring generation chooses.

1. Read through the questions.
2. On a separate piece of paper, write down answers to the questions that are applicable to your operation.
3. The answers you have written down form a preliminary plan for the ownership transfer of your assets.
4. At minimum the plan should include:
 - a. who the assets will be transferred to
 - b. when they will be transferred
 - c. what the price will be
 - d. when the funds will flow to you – as a lump sum, over time or a combination
 - e. whether you will retain assets for your estate or sell all during your lifetime
 - f. outstanding questions for your advisors

How Does This Apply?

The preliminary plans that you develop will become the basis for discussion with the family. Initially you may discuss your plans solely with your farming children and consider their concerns, comments or suggestions. Eventually it is important to involve all children in the discussion regarding ownership transfer of the family assets. Refer to your preliminary plans in the Business Structure topic, Financial Performance – Transition Scenario topic and the Preliminary Advisor Review topic.



PLANNING POINTERS:

- Remember that this is a preliminary plan. Nothing is set in stone at this point.
- You may want to take a first attempt at the questions and then set them aside; coming back to them in a few days. This gives you time to think more about your situation. Clarity of thinking can sometimes come as time passes.



WHAT TO WATCH FOR:

- If you find the questions difficult, talk to you MAFRD Business Development Specialist - Farm Management or an advisor.



EXERCISE: Go to the forms appendix at the back of this guide for a blank copy of the Ownership Options exercise on pages 281-282.

Next steps

Congratulations on completing this topic. You are now a step closer to having a transition plan for your farm. Please proceed to the next topic area on your Transition Plan, but don't forget to add any assigned tasks that were generated by working through this topic.

Ownership Options

Ownership

1. Are you looking for an interim arrangement at this stage, or are you considering a full sale?
 - a. Are you prepared for a complete change from farmer to creditor (or, if a company is involved, to a passive investor)?
 - b. Will one or more children want to become involved later?
 - c. How important is it that you retain ownership of some of the assets?
 - d. If there is an interim arrangement, how concerned are you that the farming child might not be satisfied with how the overall plan will ultimately unfold?
 - e. Could you work with your child on a partnership basis?
 - i. Do you communicate well together?
 - ii. Could you treat your child as a business partner?
2. Are you concerned about the stability of your farming child's marriage?
 - a. This can be a significant issue because if there is a marriage breakdown, an estranged in-law could acquire a larger share of your estate than your own non-farm children.
 - i. Does your child's marriage seem strong?
 - ii. Would you prefer not to transfer significant assets at this time?

Control

1. Is it important that you control the management of the farm for a period of time?
 - a. Is it important that you have some degree of control while you still have a significant investment in the farm?
 - b. Is it sufficient that you have some influence over major decisions such as the future purchase and sale of assets?
 - c. Do you want to continue managing the farm?

Security

1. What importance do you place on security?
 - a. Are you prepared to act as banker on a sale of assets or shares to your child or will you expect him or her to buy you out in whole or in part? If you do act as banker, will you want interest in the first few years of the agreement?
 - b. Are you prepared to guarantee any bank indebtedness that your farming child might take on to buy you out?
 - c. Do you want your name to remain on ownership titles until the child pays what is owed to you?

On-Farm Living

1. Will you want to stay on or move off the farm?
 - a. Does your child need to move onto the farm?
 - b. If an additional home is needed, will you or your child move into the new house?
 - c. Can your home be sub-divided from the farm?
 - d. What is the cost of housing in town?

Equal vs. Equitable Treatment of Children

1. What assets will ultimately pass to your non-farm children?
 - a. Are there non-farm assets that they might inherit?
 - b. Are there any insurance policies that they might inherit?
 - c. Will you be able to build up non-farming assets from the payments that the farming child might make to you (that could at some point be passed on to your non-farm children)?
 - d. Is it likely that the non-farming children will inherit a receivable from farming children or hold an interest in the farm?
 - e. If so, how important is it that your farm child's ability to run the farm not be put at risk?