

Farm Succession and Transition Planning Wheel

Presented by

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Define Planning

- The Answer to This Question is as Wide and Varied as the Clients We Service
- Who Needs it and Why?
- When to do Planning?
- How to Plan?
- Where to Begin?

These Last Two Questions are Where the Planning Wheel Can Help You



Planning Wheel Basics



Essential Strategies

Common Strategies

Advanced Strategies

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Essential Planning Strategies

The Core or Center of the Wheel



- Eight Core Strategies That are Essential in Any Effective Farm Succession or Transition Plan

Essential Planning Strategies

Revocable Living Trust

- Allows for Maximum use of Federal and State Exemption Amounts (coupons) Use of M706Q Elections
- Delays MN Estate Tax to Survivors Death (MN Gap Trust)
- Includes Disability Planning (Equipment, Land, Bldgs.)
- Protects Children's Inheritance and Farm From Divorce or Lawsuit
- Final Distribution Documents and Prenuptial Planning Will Protect Assets From the Possible Remarriage of the Surviving Spouse



Essential Planning Strategies

Power of Attorney

- Disability Documents
 - Used for Voting Rights, Rental Rates and Amounts
 - Handling of All Financial Affairs of Client in the Event of Their Disability
 - Best if Designed with Springing Powers so the Client is in Control Until Their Disability



Essential Planning Strategies

Disability Trust (Special Needs Trust)

- For Beneficiaries That are Collecting Title XIX Benefits
- Does Not Jeopardize the Governmental Benefits Currently Being Received by the Beneficiary



Essential Planning Strategies

HIPAA

- Documents that Allow Access to Health Information
- Complies With the Health Insurance Portability and Accountability Act



Essential Planning Strategies

Health Care Directive

- Appoints an Agent to Handle Decisions** for
 - Health Care
 - Terminal Illness
 - Living Will

*** When the Individual is Not Competent*



Essential Planning Strategies

Funding

- Changing Ownership of Assets to Appropriate Trust, Entity or Beneficiary to Insure That a Plan Works
- This is Probably One of the Most Overlooked and Most Important Areas of Estate Planning

Essential Planning Strategies

Adequate Insurance Protection

- Liability Insurance
- Proper Titling
- Proper Naming of Insured Parties
- Long Term Care Insurance
- Other Important Insurance Needs



Essential Planning Strategies

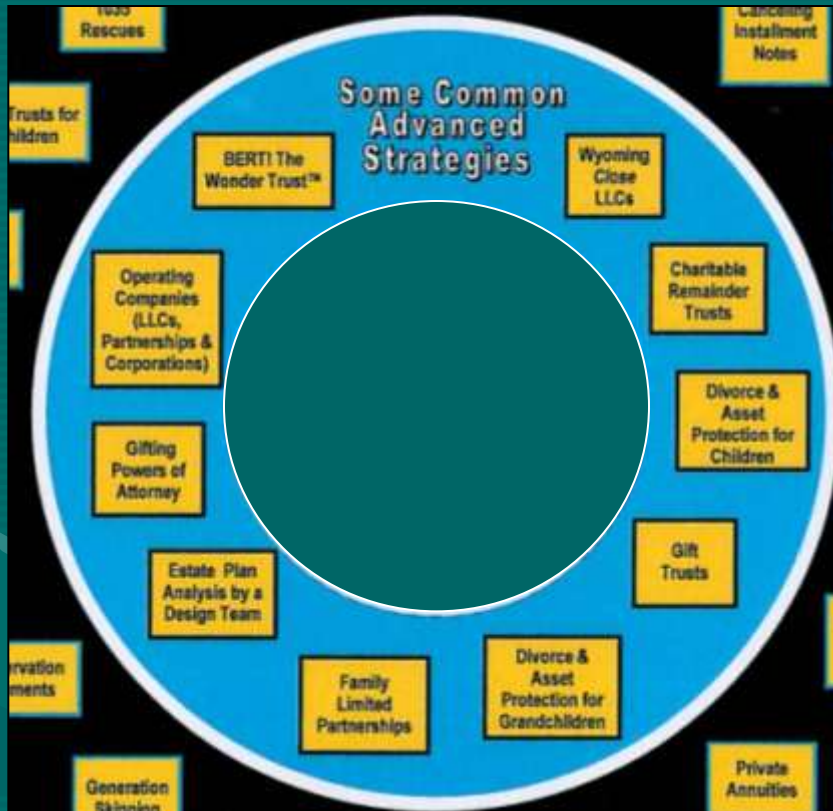
Will

- Pour Over Will Used With Revocable Living Trust Used as a Safety Net in the Event That Assets are Not Titled Correctly
- Will Involve Probate but Insures the Assets go Through the Trust



Common Planning Strategies

The Blue Ring of the Wheel



- Ten Commonly Used Advanced Strategies in Farm Succession and Transition Planning

Common Planning Strategies

Wyoming Close LLC

- Asset Protection, Discounting and Transition Planning (Gifting or Sales)
- Owns the Land, Building Sites or Occasionally Farming Operation
- Allows for Maximum Discounting Because of the Statutory Restriction Within the Wyoming Close LLC Statute
 - Discounts up to 49% have been achieved
 - Traditional discounts 35-45%
- Bulletproof Asset Protection by Statute



Common Planning Strategies

Charitable Remainder Trust (CRT)

- Exit Strategy if There is no Next Generation
- Exit Strategy for Client Owning Land Close to a Developing City
 - Client gives highly appreciated property to the trust that sells the property without tax and pays an income stream to client and spouse for their joint lives
- Trust Goes to Charity Upon Second Death
- Wealth Replacement Trust
- Equipment for Exiting Farm Client



Common Planning Strategies

Divorce & Lawsuit Protection for Children

- Protective Trust Shares (PTS)
- Kid's Trust (Gift Trusts)
- Generation Skipping Tax (GST)



Common Planning Strategies

Family Limited Partnership (FLP) 1 of 2

- Primarily Used for Discounting, Transitional Planning, and Asset Protection
- FLP Owns Assets
- Consists of General Partners and Limited Partners
- Parents Give or Sell the LP Interests



Common Planning Strategies

Family Limited Partnerships (FLP) 2 of 2

- Advantages
 - Under Minnesota Law - No need for Registered Agent
 - 100% Parental Control
 - 30-38% Discounts
 - Asset Protection for Limited Partners.
- Disadvantages
 - Multiple Generations - Corporation or Trust is used as General Partner
 - Therefore multiple book keeping, checkbooks and tax returns
 - Smaller Discounts and less asset protection than Wyoming Close LLC



Common Planning Strategies

Estate Plan Analysis by a Design Team

- Custom Designed Plans to Help the Client Reach Their **Hopes, Dreams, Goals** and **Aspirations**
- Collaborative Team Set up to Design and Implement Plan
- Formal Maintenance Plan



Common Planning Strategies

Gift of Power of Attorney

- Custom Designed Power of Attorney That Will Allow for Completion of Plan

Example

- If a plan involves the gifting of shares, creation of entities, creations of trust then the power of attorney must allow for the same under certain rules.



Common Planning Strategies

Operating Company

- Choosing the Correct Operating Company Based on Client Goals and Circumstances
 - C-Corp
 - S-Corp
 - LLC (Limited Liability Company)
 - General Partnership
- Let's Discuss Each a Little Further...Next



Common Planning Strategies

C-Corp

- Usually Used in Larger Livestock Operations
- Maximizes the Use of Deductions
- Allows for Possible Deduction of Housing, Meals, etc



Common Planning Strategies

S-Corp

- Usually Used in High Profit Operations
- Ability to Pay Both Wages and Distribution
- Payment in Distribution Avoids the Self Employment Tax (SE Tax) that equals 15.3%



Common Planning Strategies

Limited Liability Company (LLC)

- Primarily Used in Livestock Operations or Smaller Cash Crop Operations
 - Where direct payment limits have not been exceeded
- Good for Transition Planning
- Allows Rental Income Back to Farm Land Owners
- Allows Most Deductions
- Good Asset Protection



Common Planning Strategies

General Partnership

- Used in Larger Cash Crop Operations
- Allows for a Direct Payment Limit per General Partner
- Ability to Create Multiple General Partners for Direct Payment Limits
- Still Allows for Rental of Real Estate But Slightly Greyer Area
- Little to No Asset Protection Available



Common Planning Strategies

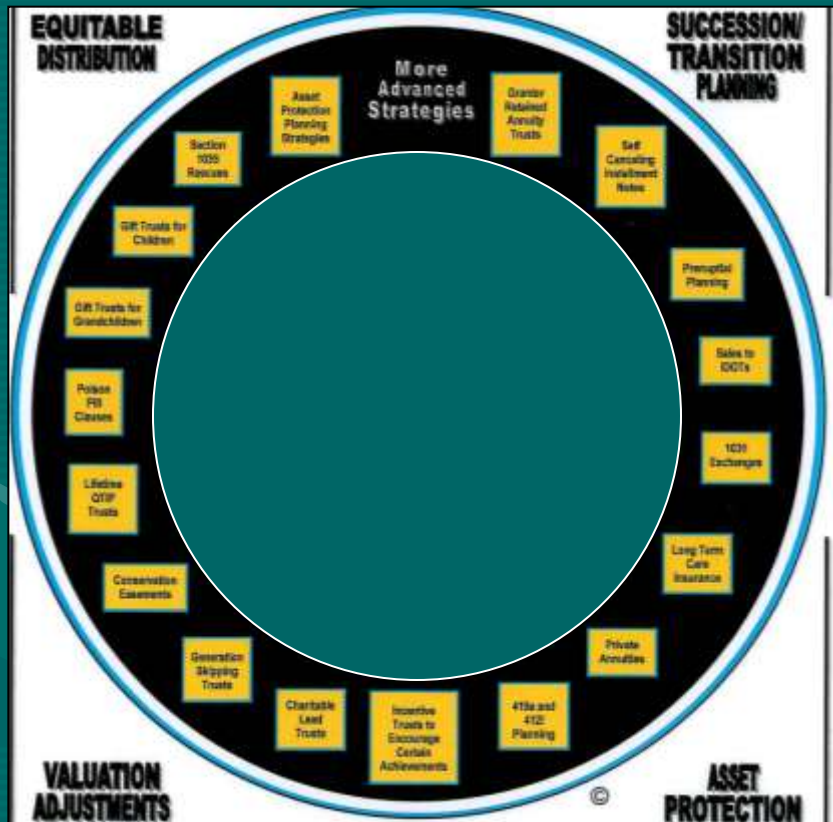
BERT the Wonder Trust (Spousal Gift Trust)

- Irrevocable Gift Trust Naming the Spouse as the Beneficiary for Their Health, Education and Maintenance
- Spouse Can Benefit Without the Assets of Trust Being Included in Their Estate
- Perfect for Client That Wants to Save Taxes but is Not Comfortable with Gifting to Children



Advanced Planning Strategies

The Outer Ring of the Wheel



- 18 Highly Specialized Strategies Used for Clients With More Advanced Planning Needs

Advanced Planning Strategies

Grantor Retained Annuity Trust (GRAT)

- Irrevocable Trust Used to Transfer Wealth From Generation to Generation
- Walton GRAT (Zero Gifting GRAT for Tax Purposes)
- Used in Combination With a Discounting Tool (Wyoming Close LLC or FLP)
- Disadvantage When Used with Land and if Grantor Does Not Survive the Term of the GRAT
 - Full value of GRAT assets will be included in the estate of the Grantor



Advanced Planning Strategies

Preuptial Planning

- Most Common Prenuptial Planning Involves Actually Getting a Prenuptial Agreement Before a Marriage
- RLT Prenuptial Planning
 - Requires the surviving spouse to sign a Prenuptial Agreement in the event of a remarriage
- Gifting Interest
- Potential Divorce Planning
 - Essential to protecting the family farm



Advanced Planning Strategies

Sales to IDOT's or IDIT's 1 of 2 (Intentionally Defective Irrevocable Trusts)

- Involves the Sale of the Farm Business or Land to an IDIT
 - With a promissory note being used for the sale of the assets
- Irrevocable Trust
 - Transfers to it are complete for transfer tax purposes (Estate Taxes)
 - Incomplete for income tax purposes
- Grantor Achieves Non-Recognition of Capital Gain on the Sale of Appreciated Assets
- Used with Discount Planning

Advanced Planning Strategies

Sales to IDOT's or IDIT's 2 of 2 (Intentionally Defective Irrevocable Trusts)

- Advantages
 - Value of the assets frozen subject to the sale
 - Steady income stream from the IDIT
- Disadvantages
 - Grantor is responsible for all income taxes from the trust except for the sale of appreciated assets
 - Promissory note remaining value



Advanced Planning Strategies

1031 Exchanges

- Like in Kind Exchanges
 - Sell this land and reinvest the proceeds into the next property
- Options for 1031
 - Land to land, building to building, landlord to landlord, land to Tenants in Common (TIC) Property
- If Any Funds are Retained by Seller for Cash or Payment of Debt a Gain will be Recognized
- The Boot (Gain) is Recognized First



Advanced Planning Strategies

Long Term Care Insurance Planning

- Planning Should Include Long Term Care or Nursing Home Planning
- Asset Protection Plan, Insurance, or Adequate Income is Needed to Ensure Payment of LTC or Nursing Home Without Jeopardizing the Farm Assets
- Medical Assistance Look-Back Period is Now 5 Years



Advanced Planning Strategies

Incentive Trust

- Protective Trust Shares With Designed Terms or Gift Trusts That Reward Certain Behavior
- Ideal For a Client
 - That does not want a child or grandchild to become a “Trust Baby”
 - Who wants to reward certain behavior or not reward certain bad behavior
- Common Planning Tool in Our Practice



Advanced Planning Strategies

Charitable Lead Trust

- Formed on a Testamentary Basis (After Death)
- Pays Income to the Charity or Private Foundation for a Period of Time Generally 18-21 Years Then the Balance of the Trust Assets Pass to the Children Tax Free
- Testamentary Charitable Lead Annuity Trusts (TCLAT)
 - Used to zero out estate taxes
 - Used as a poison pill to take away the IRS's incentive to challenge a discount
- Using a TCLAT With a Family Business can be Very Effective but **Puts an Emphasis on Good Planning**



Advanced Planning Strategies

Generation Skipping Trust

- Creates a Generation Skip for Estate Tax Purposes
- Kinds of Skipping
 - Direct skip
 - Skip to the next generation
 - Skip because the next generation has no general power of appointment



Advanced Planning Strategies

Lifetime QTIP Trust

- Used to Control the Ultimate Distribution of the Assets While Still Qualifying for the Unlimited Marital Deduction
- Used Extensively in Second Marriage Planning
- Used to Delay the MN Estate Tax



Advanced Planning Strategies

Poison Pill Clause

- Involves Putting a TCLAT (Testamentary Charitable Lead Annuity Trust) Into an RLT to Zero Out All Federal Estate Taxes
- Takes Away the IRS Incentive to Audit a Discount Thus Resulting in Larger Discounts



Advanced Planning Strategies

Gift Trusts for Grandchildren

- Irrevocable Trust Designed to Qualify for the Generation Skipping Tax Exclusion Amount
- **Must File a 709 Gift Tax Return** Applying GST to All Gifts to the Trust Including Those Using the Annual Gifting Exclusion Amount
- Lifetime Gifting Exclusion for 2012 is \$5,000,000 (Don't miss this opportunity for some clients)



Advanced Planning Strategies

Gift Trusts for Children

- Irrevocable Trust Designed to Receive Gifts From Parents to the Children
 - Either by using their annual gifting exclusion amount or filing a 709 Gift Tax Return
 - Crummy Notices
- Can be Designed to Protect the Child From Creditor/Predator Risks



Advanced Planning Strategies

Section 1035 Rescues and Irrevocable Life Insurance Trusts (ILIT's)

- Section 1035 is the Like in Kind Exchange Section of the IRS Code for Insurance Products
- Client's Insurance Needs to be Adequately Funded, Healthy, and Owned Properly

ILITs

- Trust Designed to Own and be the Beneficiary of Life Insurance While Keeping the Death Benefit Out of the Client's Estate
- Funding ILITS
 - Annual Gifting Exclusion Amounts
 - Crummy letters
 - Split Dollar Agreement
- Ownership is Based on Where the Premium Originated



Advanced Planning Strategies

Asset Protection Planning Strategies

- Includes All Plans to Insure That the Farm is Not Lost to the Risks of a Lawsuit, Creditor Risks, Risks of the Farming Partners and Other Risks
- Involves the Concept of Divide and Conquer, Hot Assets/ Cold Assets, Entity Selections, Jurisdiction Planning, and Maintenance



Case Examples

- Case Study One
- Case Study Two



Any Questions?

Thank you!

Please call us for help with any of your client needs.

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