Family Legacy Protection Planner

THREE LESSONS BUSINESS OWNERS AND OTHERS CAN LEARN FROM THE ESTATE PLANNING MISTAKES OF FARMERS AND RANCHERS

Farming or ranching is more than a means of livelihood – it is about preserving a legacy and unique way of life. Unfortunately, many farmers and ranchers don't fully protect their legacy with an up to date estate plan. An out of date or inadequate estate plan could result in a farm or ranch that has been passed down for generations ending up being sold and converted into non-agricultural use.

Sadly, farmers and ranchers are not the only ones who avoid making or updating an estate plan – many others, including business owners and parents, also avoid planning, which can cut their legacy short. In this issue you will learn about three common estate planning mistakes farmers, ranchers, and others make and how you can avoid them.

Lesson #1 – Make a Plan and Keep it Up to Date
Like farmers and ranchers, others have complex estate planning needs. For example, you may be a small business owner who has children who want to continue the business and children who do not, or you and your spouse may have a blended family or children with differing needs. This complexity can make it difficult for you to decide what to do, which may result in no estate plan being created at all. On the other hand, you may have taken the time to create an estate plan but failed to maintain and adjust the plan as your life and family have changed.

Planning Tip #1: If you do not have an estate plan, you need to seek expert advice about your planning options and assurance that your goals can be achieved. You will need to work with a team of advisors (including attorneys, accountants, bankers, and insurance specialists) who can help you create a plan that will work for your current situation.

If you already have an estate plan, you need to understand the importance of keeping your plan up to date as life events happen (births, deaths, marriages, divorces, illnesses, bankruptcies, lawsuits, jackpots) and laws are modified or repealed. As your personal and financial situations change, your team of advisors (including attorneys, accountants, bankers, and insurance specialists,) will help you update your plan so that it will work for your new situation.

Lesson #2 – Don't Rely on Joint Accounts and Beneficiary Designations
Like many farmers and ranchers, you may believe that the easiest way to plan your estate and avoid probate is to own property in joint names with family members, establish payable on death (POD) or transfer on death (TOD) accounts, and name family members as beneficiaries of your life insurance policies and retirement accounts. Relying on joint accounts and beneficiary designations is a huge mistake on many fronts.

First and foremost, you are giving up control of your real estate and other property by owning it jointly with others. In many cases, business entities (corporations, partnerships, and limited liability companies) or trusts are better options for maintaining flexibility, minimizing liability, and retaining control.

While you may have taken the time to make an estate plan, the use of joint property with rights of survivorship, POD or TOD accounts, and individual beneficiary designations on life insurance policies and retirement accounts can frustrate the intent of your plan. This is because these assets pass outside of your will or trust. In addition, outright distributions by rights of survivorship will not be protected from creditors, predators, and lawsuits.

Finally, although joint and beneficiary assets will avoid probate, these assets will still be included in your taxable estate. This may create an estate tax liability at the state and/or federal level without a well-planned means for payment since the assets will go directly into the hands of your beneficiaries. In turn, other property that passes through intestacy or a will or trust will be used to pay your estate tax bill, potentially creating unfair and unequal inheritances.

Planning Tip #2: How property is titled dictates who inherits it. You need to coordinate assets held in business entities and trusts with assets that are jointly owned or pass under a beneficiary designation. Otherwise your intended heirs may end up with nothing and payment of your estate tax bill may cause unintended consequences.

Lesson #3 – Don't Overlook Liquidity Needs
Incapacity and death are expensive. Aside from day-to-day family expenses and medical bills, attorneys, accountants, trustees, and other administration expenses need to be paid. To make matters even more challenging, federal estate taxes are due within nine months of death, and state death taxes are also typically due within this same time frame.

Where will your family get the cash to pay these expenses? Like farms and ranches, a primary residence, vacation home, investment real estate, collectibles, and a family business are illiquid. Without properly planning for immediate and long-term cash needs, your family may be forced to quickly sell your real estate and other illiquid assets at a reduced rate.

Planning Tip #3: You need to assess your liquidity needs and create a plan for managing debt and expenses upon your incapacity or death. Your financial advisor, insurance specialist, and banker can assist you with securing lines of credit and the proper amount of disability insurance, long-term care insurance, and life insurance. You should also consult with an experienced estate planning attorney to help you create a trust, business entities, and other liquidity strategies.

Takeaways for Business Owners and Others
Like farmers and ranchers, you may have unique circumstances that require specialized estate planning solutions. You need to assemble a team of professionals to help you create and maintain a plan that will preserve your legacy. We are experienced with helping farmers, ranchers, and others achieve their estate planning goals. Please call us if you have any questions and to arrange for a consultation.

ENSURE YOUR FAMILY IS PROTECTED

If you want to ensure that your family is protected, please schedule your complimentary Estate Planning Strategy Call with San Francisco's premier estate planning attorney, Matthew J. Tuller.

LEARN MORE

BROUGHT TO YOU BY:

LAW OFFICE OF MATTHEW J. TULLER

275 BATTERY STREET
13TH FLOOR
SAN FRANCISCO, CA 94111

With an emphasis on developing and maintaining relationships with our clients and allied professionals, our firm collaboratively provides comprehensive estate planning and administration solutions to every client. Our firm provides the full spectrum of estate planning solutions. This includes creating and implementing a comprehensive estate plan, maintaining that plan through life, and administering the plan in the most effective and efficient manner.