

Tracy Ellingson

From: Mark Wood <mawood@ksu.edu>
Sent: Saturday, May 27, 2017 8:35 AM
To: Kent Vickre
Subject: 5-3 Mark Wood, 2017 Estate Planning me
Attachments: Farm-Business Succesion & Entity Planning 2-13-17.pptx; Farm-Business Succesion & Estate Planning 2-13-17 Handouts.pdf

Kent,

I also provided a presentation to an estate planning workshop where I was asked to discuss transition planning for "farms and small businesses". The idea here is that it is more "touchy feeling" than pure economics. I have slides in the power point for the legal stuff since I have used the presentation to do the whole subject, but for my meeting this year (Feb 2017) I just did the relational stuff. See what you think.

Mark A Wood

Extension Agricultural Economist

Kansas Farm Management Assoc., NW

PO Box 841

1975 West 4th

Colby, KS 67701

Cell: 785-443-2378

Office: 785-462-6664

Fax: 785-462-3863

Farm & Small Business Succession and Entity Planning Suggestions

Mark A Wood

Extension Agricultural Economist, EA

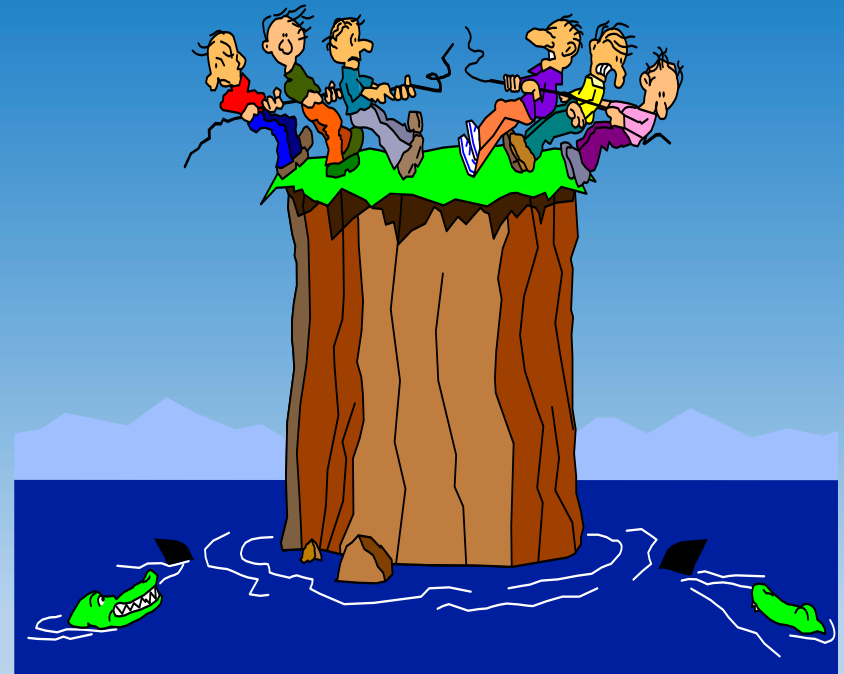
KFMA, NW



Program Outline:

- Succession Planning:
 - Economic Viability
 - Personality Compatibility Issues
 - Business Transition Consideration

- Entity Considerations:
 - Business Transition friendly?
 - Fair?



Succession Planning Questions:

- **Economic Viability:**

- Economic capacity (size, volume, gross profit) to succeed?
- What kind of margin are you working with?
 - Farm Margins 20% over time....
 - Small Business 10 - 15%?



- **Family Living reality: (wages & draws from business)**

- Plan at least \$50K compensation as minimum and \$100K more likely
 - Health Care costs
 - Housing Costs
 - Vehicle Costs
 - Lifestyle costs.....play....

Succession Planning Questions:

- Economic Viability Example: (work backwards)

• Compensation (two families)	\$150,000
• Business Debt Service	\$ 75,000 (\$1.0m @ 6% @ 30 yr.)
• Net required from business	<u>\$225,000</u>

• Business Net Margin:	20%	15%	10%	5%
• Gross Profit Margin:	\$1.125m	\$1.5m	\$2.25m	\$4.5m

Succession Planning Questions:

- Personality Compatibility:

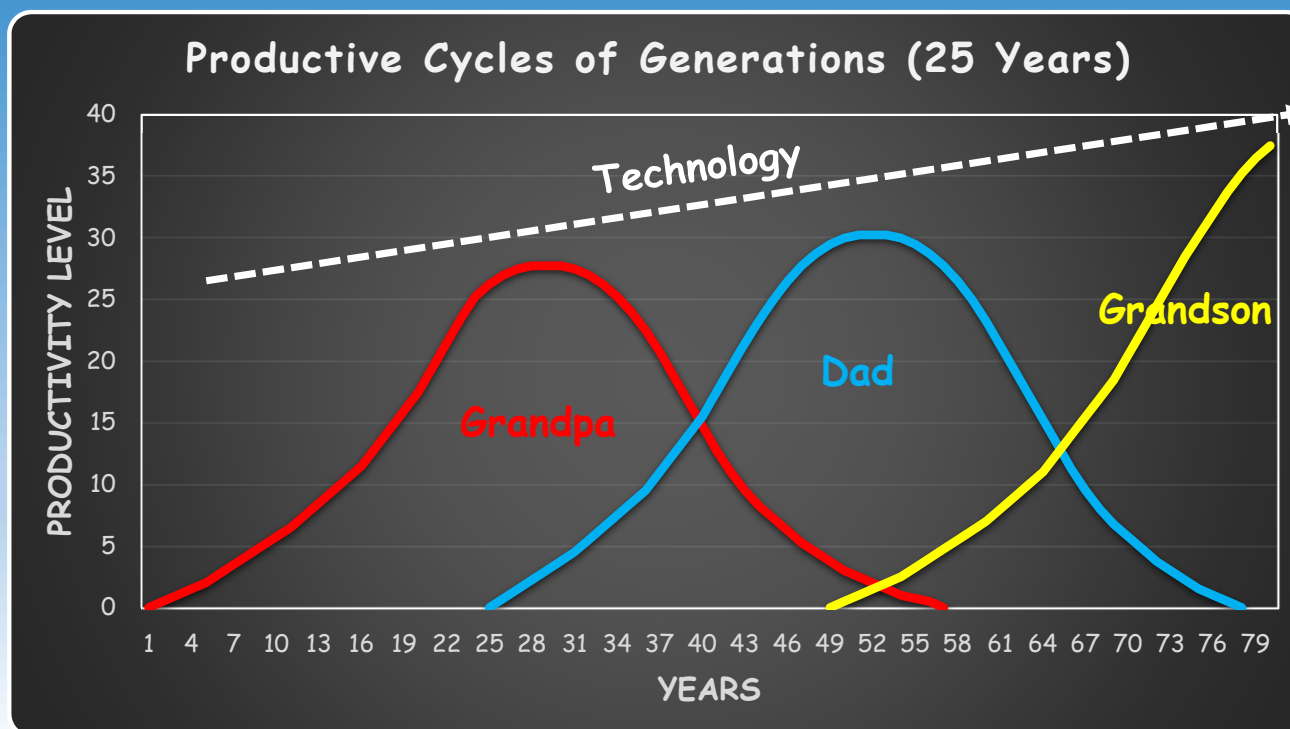
PERSONAL AND LIFESTYLE CHARACTERISTICS BY GENERATION

	Veterans (1922-1945)	Baby Boomers (1946-1964)	Generation X (1965-1980)	Generation Y (1981-2000)
Core Values	Respect for authority Conformers Discipline	Optimism Involvement	Skepticism Fun Informality	Realism Confidence Extreme fun Social
Family	Traditional Nuclear	Disintegrating	Latch-key kids	Merged families
Education	A dream	A birthright	A way to get there	An incredible expense
Communication Media	Rotary phones One-on-one Write a memo	Touch-tone phones Call me anytime	Cell phones Call me only at work	Internet Picture phones E-mail
Dealing with Money	Put it away Pay cash	Buy now, pay later	Cautious Conservative Save, save, save	Earn to spend



Succession Planning Questions:

- Leveraging Generational Overlap?



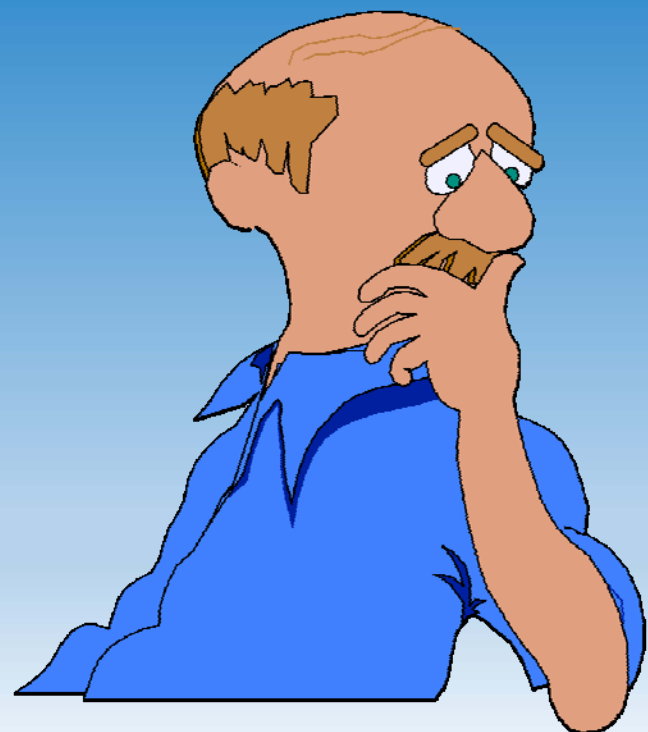
Succession Planning Questions:

- Personality Compatibility:
 - Critical to determine compatibility
 - **Style** of making decisions—what hill to die on!
 - Attention to details
 - What motivates individuals? How does that effect the business?
 - **Balance** between business and family priorities
 - Financial Goals and Rewards
 - **Style** of Employee Management
 - **Vision** of where business is going, **WHY?**
 - Try this personality profile (free)

<https://www.16personalities.com/free-personality-test>



Succession Planning:



Questions?

Entity Considerations:

- Type of Legal Entities:
 - Single or Sole Proprietorship
 - Trust
 - General Partnership
 - C and S Corporations
 - LLC, taxed as Single Member, Partnership, C and S Corporation
 - Family Limited Partnership

Entity Considerations:

Pre-Entity Considerations:

- Economically Viable?
- Personalities Mesh?

No →

Each go separate way, or next generation operates as sole proprietor

Yes

Test Period:

- Salary Agreement
- Joint Venture

NOT Satisfactory →

In Spin-off operation, "doing business together but separately"
• Lease fixed assets/equipment?

Satisfactory?



Formal Joint Arrangement

- Partnership LLC
- S or C Corporation



Entity Considerations:

- Divide Business into components
 - Operating Entity:
 - Day to Day Operations, Inventory, Employees, Depreciable Assets
 - Typically S-Corporation or Partnership LLC
 - Limit Liability with Corporation or LLC
 - S-Corp to manage self-employment taxes
 - Profits are currently not subject to SE taxes.....
 - Partnership LLC easy to form, divide income different from asset contribution
 - Income *is taxed* at stockholder/member level
 - Profits are distributable for investment by stockholder/member

Entity Considerations:

- Divide Business into components
 - Operating Entity: (continued)
 - Compensation for labor and management adjustable
 - Wages in S Corporation/Guaranteed payments LLC
 - Transfer of Assets?
 - Sell stock to next generation or outside investor (LT Cap Gain Taxes)
 - Can gift stock/membership to next generation with discount...
 - **MUST** have a thought out (and reviewed regularly) buy-sell-agreement
- Over time the operating entity can facilitate transfer of operating assets to active heir....

Entity Considerations:

- Divide Business into components
 - Asset Owning Entity:
 - Buildings, Real Estate for Farm or non-farm Business
 - Typically transferred to Partnership LLC
 - Allows for step up in Basis of Assets through member estate
 - Transfer of Assets?
 - Can give active and non active heirs equal ownership (fair?)
 - Allow active heir to manage assets?
 - Can facilitate reallocate ownership after your passing by way of buy-sell agreements.
 - Continue to allow step up in basis through generations....

Entity Considerations:

Operating Entity:

- Day to day operations
- Manages Employees
- Inventory
- Equipment:
 - Procurement
 - Operations
- Marketing
- Finance Operations
- Accounting/Payroll
- Business Vision/Goals

Rent →

Wages →

Profits →

Asset Owning Entity:

- Farm Real Estate
- Non-Farm Real Estate
- Building/Plant/Fixed Equipment

Profits →

Dad & Mom?

- Income Sources?
 - Wages
 - Entity Profits
- Provide For Retirement?
- Provide for LT Care?

Entity Considerations:

Questions?



Estate Planning Considerations:

- Goals



Estate Planning: Goals

- Avoid Taxes?
- Avoid Probate (cut perceived cost, privacy?)
- Make sure the assets are managed/distributed as desired?
- Keep the family business IN the family?
- Avoid Long Term Care issues?
 - Long Term Care Insurance best plan here....
- Provide for surviving spouse, dependent/disabled children
- Other considerations?
 - **FAIRNESS**....whatever that is?

Estate Planning Considerations:

- Goals
- Put your Estate in Order

Estate Planning: Estate In Order?

- ✓ Have I used appropriate technique to transfer property?
 - Law - JTWROS, TOD, POD
 - Will - Sole Owner, Tenant-in-common
 - Trusts - Living/Revocable, Testamentary, Irrevocable
 - Beneficiary designation (IRA, Annuities, Retirement Accounts)
 - Gifts:
 - Unlimited marital deduction
 - Annual Gift Exclusion: \$14,000 (2016) anticipated
 - \$28,000 per recipient for married couples who "split gifts"

Estate Planning: Estate In Order?

➤ Gifts continued:

- Charitable Gifts (unlimited estate deduction)
- Gift Agreements: various trusts, annuities, and funds
- Estate Gift - bequest in will or living trust, retirement plan gift, life insurance gift
- Lifetime gifting - outright gift of appreciated property, real estate, cash, retained life estate
- Contract - life insurance, retirement plan

Estate Planning: Estate In Order?

- ✓ Letter of last instruction?
 - Location of personal documents, financial papers & accounts.....where is the safety deposit box key?
 - How about **PASSWORDS** on Bank Account and Accounting Software?
 - Names, Addresses, phone numbers of family, personal friends
 - Personal/financial professionals to be notified of death
 - Names of people to receive special things (jewelry, furniture, and etc.)
 - Preferences for: funeral/burial services & organs/body donations

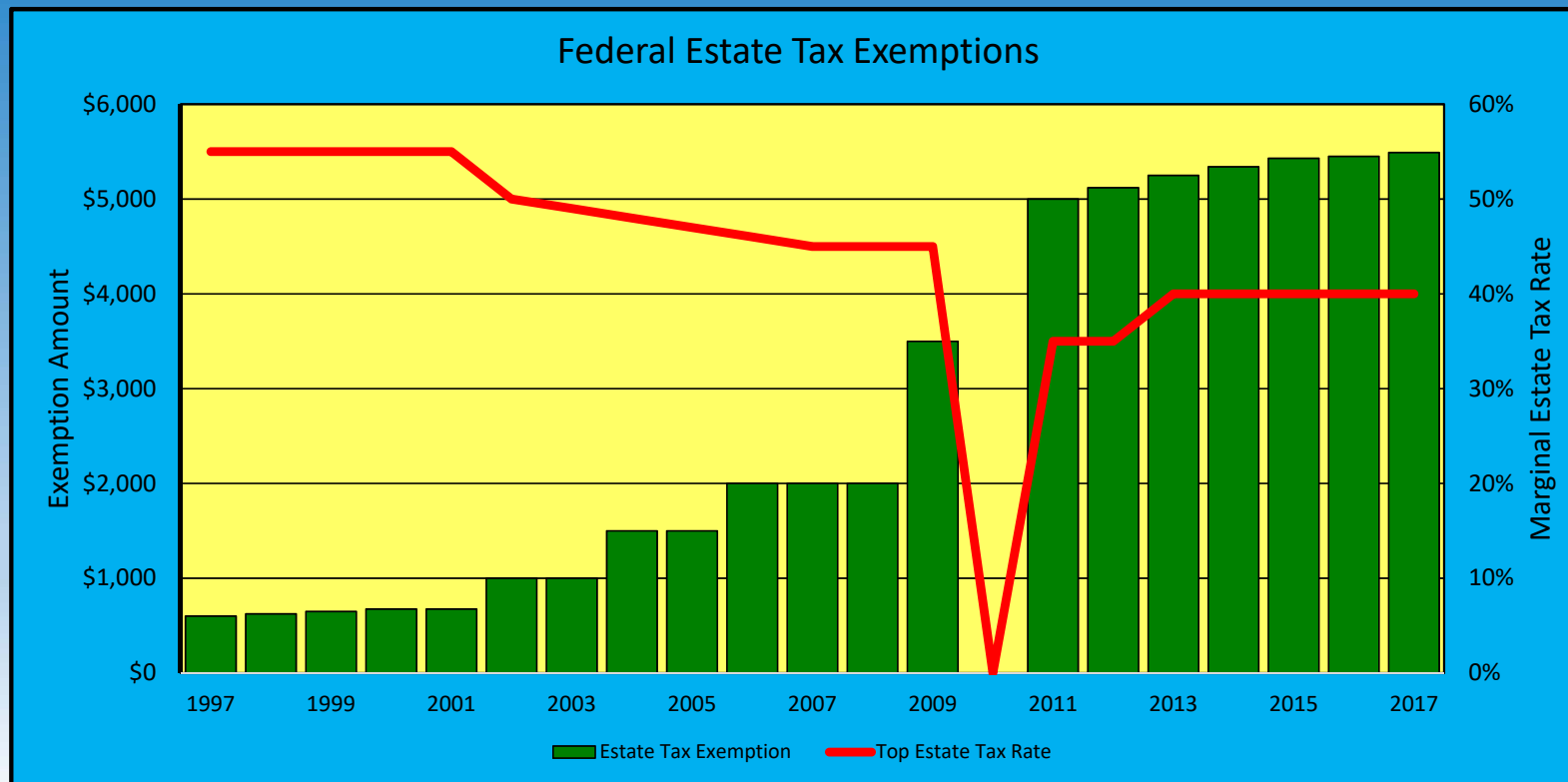
Estate Planning: Estate In Order?

- ✓ Name of personal and/or financial guardian for my dependents
- ✓ **I have changed ownership or transferred assets to be consistent with my estate planning documents!**
- ✓ My financial records are in order so my executor can take over immediately if something happens to me?
- ✓ *How would my estate plan function if I died tonight?*

Estate Planning Considerations:

- Goals
- Put your Estate in Order
- Estate Tax Exemption Considerations

Estate Planning: Estate Taxes?



Estate Planning Considerations:

- Goals
- Put your Estate in Order
- Estate Tax Exemption Considerations
- What is Basis?

Estate Planning: What is Basis?

- Cost of acquiring asset by original purchaser
- Value when transferred through estate:
 - 2017 all assets stepped up to value of appraisal in completing estate or used on estate tax return IRS Form 706*
- Gift basis = Cost/inheritance value of recipient/purchaser

- *Trump Proposed Estate Tax changes step-up in Basis, possibly elimination*

Estate Planning: What is Basis?

- Basis in land gifted to you (in 1958 when you were married) from your parents who received it from their parents (in 1941) when your parents were married.
 - Grand Parents bought the quarter in 1926 for **\$5/ac**
- Basis in land your parents gifted to you in 2009 when they inherited it in 1975?
- Basis in Tractor bought in 2013 for \$150,000 and elected section 179 \$125,000, and depreciation of \$13,783 = **\$11,217.**



Estate Planning Considerations:

- Goals
- Put your Estate in Order
- Estate Tax Exemption Considerations
- What is Basis?
- General Estate Planning Suggestions

Estate Planning Suggestions: <\$5.49 M

- Title property in Joint Tenancy if you want all to go to surviving spouse
- Consider A and B or Joint Trusts to manage assets for surviving spouse or creating Life Estates in will (protect assets from remarriage?)
 - If the first to die does not use exclusion, be sure to file 706 with IRS to elect spousal portability....
- Consider LTC insurance/Asset Transfers?
- Consider Life Insurance needed to cover debts
- Decide who gets what and when!
- What about the kids?

Estate Planning Suggestions: >\$5.49M <\$10.98M

- Balance the estate ownership Tenancy in common (don't want JTWROS except on vehicles)
- Consider A/B or Joint Trusts to manage assets for surviving spouse or creating Life Estates in will
 - If the first to die does not use exclusion, be sure to file 706 with IRS to elect spousal portability....
- Consider LTC insurance/Asset Transfers?
- Consider Life Insurance needed to cover debts and provide Liquidity
- Decide who gets what and when!
- What about the Kids?
- This will NOT avoid probate unless trusts are used

Estate Planning Suggestion: >\$10.98M

- Generic Gifting (cash) program:
 - \$14K annual exclusion (\$14K in 2017)
- Establish LLC for land assets?
 - Discounted gifting program to kids of entities:
 - 30% discount is typical (can be more if done properly)
- Consider charitable gifts from your estate, 100% deduction from estate taxes.
- Charitable Remainder Trust (create while alive, receive donation presently, asset transfer on death)

Estate Planning Considerations:

- Goals
- Put your Estate in Order
- Estate Tax Exemption Considerations
- What is Basis?
- General Estate Planning Suggestions
- Common Mistakes in Estate Planning*

*www.washburnaglaw.edu/waltr, Roger A McEowen

Estate Planning Common Mistakes*:

- Simply not doing anything
- Title Ownership doesn't match estate planning
- Leaving everything in large estates to surviving spouse
- Thinking there isn't enough wealth to do estate planning
- Not considering the lack of liquidity in estate
- Not understanding the difference between "equal" & "fair"
- Improper use of life estate/remainder arrangements
- Not preserving eligibility for special use valuation
- Not doing the basics in preserving records and key documents

*www.washburnaglaw.edu/waltr, Roger A McEowen

Estate Planning Common Mistakes*:

- Making the plan too complex
- Failure to review (and update, if necessary) the plan—*every 5 years*
- Failure to check beneficiary designations
- Failure to use disclaimers post-death to correct errors in the estate plan
- Naming one child as a financial fiduciary when there are multiple children
- Making gifts to the children without clarification in will
- Making loans to children without clarification in will
- Not meeting regularly with advisors
- Small businesses NOT having well drafted buy-sell-agreements

*www.washburnaglaw.edu/waltr, Roger A McEowen

Estate Planning Considerations:

Questions?

Farm & Small Business Succession and Entity Planning Suggestions

Mark A Wood
 Extension Agricultural Economist, EA
 KFMA, NW

Program Outline:

- Succession Planning:
 - Economic Viability
 - Personality Compatibility Issues
 - Business Transition Consideration
- Entity Considerations:
 - Business Transition friendly?
 - Fair?



KANSAS STATE UNIVERSITY | Agricultural Economics



KANSAS STATE UNIVERSITY | Agricultural Economics



Succession Planning Questions:

- **Economic Viability:**
 - Economic capacity (size, volume, gross profit) to succeed?
 - What kind of margin are you working with?
 - Farm Margins 20% over time....
 - Small Business 10 - 15%?
- **Family Living reality: (wages & draws from business)**
 - Plan at least \$50K compensation as minimum and \$100K more likely
 - Health Care costs
 - Housing Costs
 - Vehicle Costs
 - Lifestyle costs.....play....



Succession Planning Questions:

• Economic Viability Example: (work backwards)

• Compensation (two families)		\$150,000			
• Business Debt Service		\$ 75,000	(\$1.0m @ 6% @ 30 yr.)		
• Net required from business		\$225,000			
• Business Net Margin:	20%	15%	10%	5%	
• Gross Profit Margin:	\$1.125m	\$1.5m	\$2.25m	\$4.5m	



KANSAS STATE UNIVERSITY | Agricultural Economics



KANSAS STATE UNIVERSITY | Agricultural Economics



Succession Planning Questions:

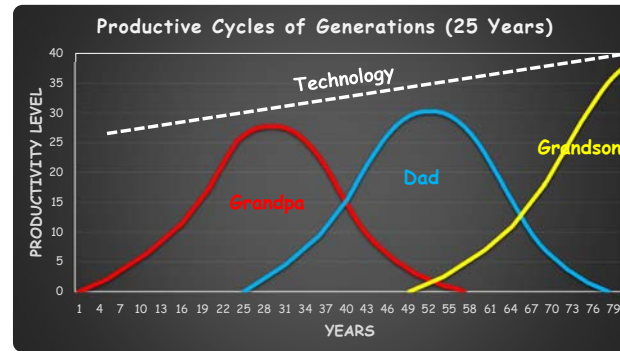
• Personality Compatibility:

PERSONAL AND LIFESTYLE CHARACTERISTICS BY GENERATION				
	Veterans (1922-1945)	Baby Boomers (1946-1964)	Generation X (1965-1980)	Generation Y (1981-2000)
Core Values	Respect for authority Conformers Discipline	Optimism Involvement	Skepticism Fun Informality	Realism Confidence Extreme fun Social
Family	Traditional Nuclear	Disintegrating	Latch-key kids	Merged families
Education	A dream	A birthright	A way to get there	An incredible expense
Communication Media	Rotary phones One-on-one Write a memo	Touch-tone phones Call me anytime	Cell phones Call me only at work	Internet Picture phones E-mail
Dealing with Money	Put it away Pay cash	Buy now, pay later	Cautious Conservative Save, save, save	Earn to spend



Succession Planning Questions:

• Leveraging Generational Overlap?



KANSAS STATE UNIVERSITY | Agricultural Economics



KANSAS STATE UNIVERSITY | Agricultural Economics

Succession Planning Questions:

• Personality Compatibility:

- Critical to determine compatibility
 - **Style** of making decisions—what hill to die on!
 - Attention to details
 - What motivates individuals? How does that effect the business?
 - **Balance** between business and family priorities
 - Financial Goals and Rewards
 - **Style** of Employee Management
 - **Vision** of where business is going, **WHY?**
- Try this personality profile (free)

<https://www.16personalities.com/free-personality-test>



Succession Planning:

Questions?



KANSAS STATE UNIVERSITY | Agricultural Economics



KANSAS STATE UNIVERSITY | Agricultural Economics



Entity Considerations:

- Type of Legal Entities:
 - Single or Sole Proprietorship
 - Trust
 - General Partnership
 - C and S Corporations
 - LLC, taxed as Single Member, Partnership, C and S Corporation
 - Family Limited Partnership

Entity Considerations:

Pre-Entity Considerations:

- Economically Viable?
- Personalities Mesh?

No →

Each go separate way, or next generation operates as sole proprietor

Yes ↓

Test Period:

- Salary Agreement
- Joint Venture

NOT Satisfactory →

In Spin-off operation, "doing business together but separately"
• Lease fixed assets/equipment?

Satisfactory? ↓

Formal Joint Arrangement

- Partnership LLC
- S or C Corporation



Entity Considerations:

- Divide Business into components
 - Operating Entity:
 - Day to Day Operations, Inventory, Employees, Depreciable Assets
 - Typically S-Corporation or Partnership LLC
 - Limit Liability with Corporation or LLC
 - S-Corp to manage self-employment taxes
 - Profits are currently not subject to SE taxes....
 - Partnership LLC easy to form, divide income different from asset contribution
 - Income *is taxed* at stockholder/member level
 - Profits are distributable for investment by stockholder/member

Entity Considerations:

- Divide Business into components
 - Operating Entity: (continued)
 - Compensation for labor and management adjustable
 - Wages in S Corporation/Guaranteed payments LLC
 - Transfer of Assets?
 - Sell stock to next generation or outside investor (LT Cap Gain Taxes)
 - Can gift stock/membership to next generation with discount....
 - **MUST** have a thought out (and reviewed regularly) buy-sell-agreement
 - Over time the operating entity can facilitate transfer of operating assets to active heir....

Entity Considerations:

- Divide Business into components
 - Asset Owning Entity:
 - Buildings, Real Estate for Farm or non-farm Business
 - Typically transferred to Partnership LLC
 - Allows for step up in Basis of Assets through member estate
 - Transfer of Assets?
 - Can give active and non active heirs equal ownership (fair?)
 - Allow active heir to manage assets?
 - Can facilitate reallocate ownership after your passing by way of buy-sell agreements.
 - Continue to allow step up in basis through generations....



Entity Considerations:

- Operating Entity:**
- Day to day operations
 - Manages Employees
 - Inventory
 - Equipment:
 - Procurement
 - Operations
 - Marketing
 - Finance Operations
 - Accounting/Payroll
 - Business Vision/Goals

Rent →

Wages →

Profits →

- Asset Owning Entity:**
- Farm Real Estate
 - Non-Farm Real Estate
 - Building/Plant/Fixed Equipment

Profits ↓

- Dad & Mom?**
- Income Sources?
 - Wages
 - Entity Profits
 - Provide For Retirement?
 - Provide for LT Care?



Entity Considerations:

Questions?

