

But, a succession plan should focus on the “what if” possibilities. What if individuals were to die or retire prematurely? One or more marriages were to be dissolved with a consequent division of ownership of the business? Serious and fundamental disagreements were to arise? Or major tort or other liabilities were to rock the operation?

These types of developments are difficult to plan for but failure to plan can produce wrenching consequences.

Assuring fair compensation

Especially for younger generation individuals who have little decision making power, it is important to address the matter of compensation of individuals for their labor and management as well as their capital.

The hazards of delaying compensation adjustments, which is fairly common in family operations, are well known. It is important to compensate each individual fairly each year. If cash compensation would strain the cash flow from the business, part of the compensation could be paid in increased equity in the business.

Valuing ownership interests

Especially for those unable to force dissolution and liquidation of the business, periodic valuation of ownership interests on a fair and equitable basis is a key part of protecting owners, particularly minority owners. Several basic options are available including:

- book value,
- appraisal, or
- a periodically re-negotiated fixed price (set by the shareholders or directors annually based upon an inventory of all assets in the farm or ranch business).

Protecting minority owners

In addition to providing for a fair and equitable valuation of ownership interests, minority owners can be protected from the harshness of majority rule in other ways:

- Carefully drafted provisions for triggering first option and buy-sell agreements can be used to create a market for stock or other ownership interests.
- The traditional decision-making rules can be modified in various ways to provide greater protection for the minority owners by providing for:
 1. a greater than majority vote for decision making;
 2. a below-majority vote (in some states);
 3. key issues (such as an assured employment for a specified number of years or a designated minimum salary) to be predecided in a shareholders’ agreement, voting trust or pooling agreement;
 4. cumulative voting; or
 5. pre-emptive rights.

Encouraging phased retirement

The final element of a succession plan focuses on encouraging older individuals to retire and may include several components—

- An appropriate level of compensation should be assured during the retirement years.
- Access to retirement benefits should be assured and compensation arrangements should be compatible with receiving social security benefits, particularly for those under age 70.
- Reduced-responsibility positions on the management team should be established for those approaching the retirement years.

In conclusion

In the final analysis, a successful plan of succession in the farm or ranch business depends heavily on the personal chemistry of the individuals involved. However, a carefully considered and thought-out succession plan can be helpful in shaping expectations and in providing a framework for implementing the steps needed for an efficient and tranquil transition.

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