Florida Agricultural Financial Management Conference

Tax and Succession Planning for Agricultural Businesses

August 27, 2015

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Dean, Mead, Minton & Zwemer
Basic Life Cycle of a Business

Start-up

Expansion/Growth

Financial Stability

Transition of Management, Control and Ownership

Continuation under new ownership vs. sale
What is “Succession Planning”? 

Planning for the transition

- Management
- Control
- Ownership
Why is Succession Planning Important?

70% of U.S. farm land will be transferred in the next 20 years

>1/3 of family businesses survive to the 2\textsuperscript{nd} generation
>1/2 of those survive to the 3\textsuperscript{rd} generation

80% of ag owners plan
>20% lacked confidence
Transition of Management, Ownership & Control

Minimizing taxes

Preserving ownership and control

Maintaining financial security

Structuring management
Transition of Management, Ownership & Control

Treating family equitably

Managing conflicts

Maintaining flexibility
Goals of Restructuring

Framework for all future planning

Establish management, ownership and control

Mechanism to transfer growth

Isolate operational liabilities

Protect business operations
Equitable not equal
Managing family conflicts
Transition of Control
The Governing Agreement
Overview of Income Tax Rules

Income tax rate - 39.6%

Capital gains rate - 20%

Net investment tax - 3.8%

State income tax
Overview of Transfer Tax Rules

$5,430,000
40% tax rate

Lifetime transfers
  Gift splitting
  Annual exclusion gifts

Transfers upon death
  Deceased spouse’s unused estate tax exemption
Estate Planning Evolution

Transfer taxes
Family management
Direct ownership
Concentrated business

Income taxes
Professional management
Dynastic ownership
Diversified business
Creditor protection
Fiduciary litigation
B & B Company, LLC

<table>
<thead>
<tr>
<th>Parcel</th>
<th>Basis</th>
<th>FMV</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dead Grove Parcel</td>
<td>$50,000</td>
<td>$5,000,000</td>
</tr>
<tr>
<td>Ranch Parcel</td>
<td>$4,000,000</td>
<td>$5,000,000</td>
</tr>
<tr>
<td></td>
<td>Buddy</td>
<td>Brenda</td>
</tr>
<tr>
<td>------------------</td>
<td>---------</td>
<td>---------</td>
</tr>
<tr>
<td>B&amp;B Company, LLC</td>
<td>$5 million</td>
<td>$5 million</td>
</tr>
<tr>
<td>Other Assets</td>
<td>$1 million</td>
<td>$1 million</td>
</tr>
<tr>
<td></td>
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</tbody>
</table>
Old Estate Planning Analysis

Credit Shelter Trust

Marital Shelter Trust

Discounts
<table>
<thead>
<tr>
<th></th>
<th>Death of Buddy</th>
<th>2009</th>
<th>Death of Brenda</th>
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</thead>
<tbody>
<tr>
<td>Gross Estate</td>
<td>$4,250,000</td>
<td></td>
<td>$5,000,000</td>
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<tr>
<td>Marital Deduction</td>
<td>($750,000)</td>
<td></td>
<td>($0)</td>
</tr>
<tr>
<td>Tentative Estate Tax</td>
<td>$1,455,800</td>
<td></td>
<td>$2,130,800</td>
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<tr>
<td>Estate Tax Credit</td>
<td>($1,455,800)</td>
<td></td>
<td>($1,455,800)</td>
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<tr>
<td>Tax Due</td>
<td>$0</td>
<td></td>
<td>$675,000</td>
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</table>
## Post-Mortem

<table>
<thead>
<tr>
<th></th>
<th>Amount 1</th>
<th>Amount 2</th>
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</thead>
<tbody>
<tr>
<td>Buddy’s Assets</td>
<td>$3,500,000</td>
<td>$5,250,000</td>
</tr>
<tr>
<td>Brenda’s Assets</td>
<td>4,325,000</td>
<td>6,075,000</td>
</tr>
<tr>
<td>Total Assets</td>
<td>$7,825,000</td>
<td>$11,325,000</td>
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<tr>
<td>Tax Rate</td>
<td>5.625%</td>
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</table>
## Sale of Dead Grove Parcel

<table>
<thead>
<tr>
<th></th>
<th>B &amp; B Company, LLC</th>
<th>Buddy’s Credit Trust</th>
<th>Brenda</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sales Price</strong></td>
<td>$5,000,000</td>
<td>$2,500,000</td>
<td>$2,500,000</td>
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<tr>
<td><strong>Basis</strong></td>
<td>50,000</td>
<td>1,044,200</td>
<td>25,000</td>
</tr>
<tr>
<td><strong>Capital Gain</strong></td>
<td>4,950,000</td>
<td>1,455,800</td>
<td>2,475,000</td>
</tr>
<tr>
<td><strong>Tax</strong></td>
<td>$742,500</td>
<td>$218,370</td>
<td>$371,250</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$589,620</td>
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New Estate Planning Analysis

Credit Shelter Trust
Marital Shelter Trust
Discounts
Income Tax
Capital Gains Tax
Net Investment Tax
<table>
<thead>
<tr>
<th>Death of Buddy</th>
<th>2015 with Discount</th>
<th>Death of Brenda</th>
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</thead>
<tbody>
<tr>
<td>$4,250,000</td>
<td><strong>Total Estate</strong></td>
<td>$4,250,000</td>
</tr>
<tr>
<td>($ 0)</td>
<td><strong>Marital Deduction</strong></td>
<td>($ 0)</td>
</tr>
<tr>
<td>$ 0</td>
<td><strong>Tentative Estate Tax</strong></td>
<td>$ 0</td>
</tr>
<tr>
<td>($ 0)</td>
<td><strong>Estate Tax Credit</strong></td>
<td>($ 0)</td>
</tr>
<tr>
<td>$ 0</td>
<td><strong>Total Tax Due</strong></td>
<td>$ 0</td>
</tr>
</tbody>
</table>
Basis Planning
B & B Company, LLC
Dead Grove Parcel

B & B Company, LLC (with Ranch Parcel)
100%
Annual Gifting

Dead Grove Parcel
$2.025M Basis
Dead Grove Parcel
$2.025M Basis

Credit Shelter Trust

Dead Grove Parcel
$5M Basis
The New Reality

Obtaining a Higher Basis

Planning for Death becomes more about

Basis and Income Tax Planning
All To QTIP

2015
H dies

- $5 Million

Marital Trust

In 2025 (W dies)

$8,000,000

Full step-up in basis at W’s death

$0 Income Tax

2025
W dies

- $8,000,000 Estate
- $8,000,000 Marital Trust
- $16,000,000 Gross Estate
- < 5,430,000> DSUE
- < 6,620,000> Exemption
- $ 3,950,000 Taxable Estate
- 1,580,000 Estate Tax

Total Tax = $1,580,000
A/B Trust Plan

2015

H dies

$5 Million

Credit Shelter Trust

In 2025 (W dies)

FMV $8,000,000
Basis <$5,000,000> $3,000,000

2025

W dies

$ 8,000,000 Estate
< 430,000> DSUE
<$ 6,620,000> Exemption
950,000 Taxable Estate
$ 380,000 Estate Tax

Total Tax = $1,094,000

Income Tax = $714,000 + $380,000
(Assumes 23.8% Rate)
Planning Options

Set formula split between Credit Amount and Marital Amount

All to spouse

All to Marital Trust (QTIP)
Planning Options

Power by Disinterested Trustee

Sale of loss assets
Conservation Easements: A Planning Opportunity
Income Tax Consequences: Sales of Easements
Threat of condemnation?
Estate Tax Planning Opportunities
Why is Succession Planning Important?

- Minimize Taxes
- Creditor/Divorce Protection
- Business Continuity
- Preserve Value
- Avoid & Resolve Family Conflicts
- Define Management

With proper planning, your business can be one of the few that survive to future generations

GET STARTED NOW!
Questions?

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dapfelbaum@deanmead.com

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