

# PREPARING FOR BUSINESS AND FARM SUCCESSION

**YOU MEAN I NEED TO DO MORE WORK THAT  
I DON'T ENJOY!**



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# Acknowledgement

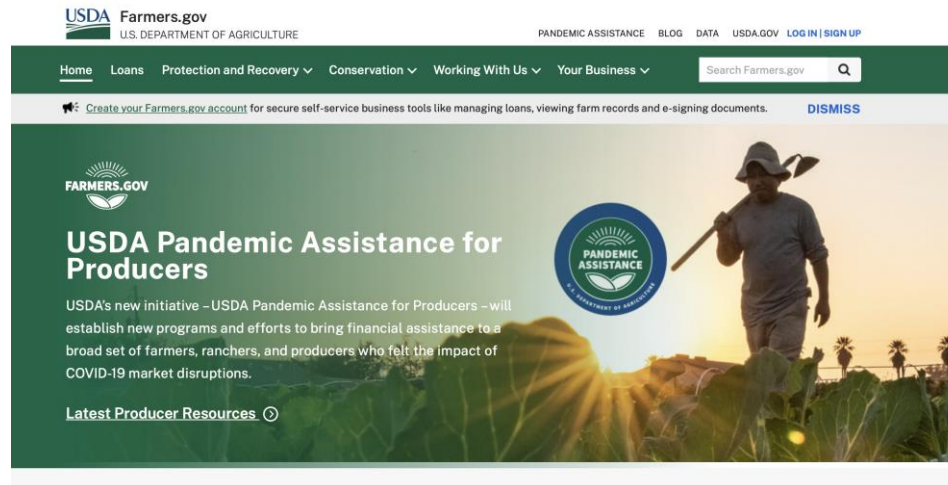
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# Tax and Financial Education Project

3-Year USDA-FSA Funded Project  
Tax and Asset Protection related  
educational materials:

Beginning Farmer/Ranchers  
Commercial Farmers/Ranchers  
Socially Disadvantaged  
Farmers/Ranchers  
Landowners  
Others.



# Presenters/Project Leaders

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## About Us

### National Farm Income Tax Extension Committee History

During the late 1930s and 1940s, many states established farm record projects. World War II led to increases in federal income tax. The need to understand and take appropriate action to governmental laws and regulations prompted farm families to demand educational programs in income tax management, social security, insurance, governmental farm programs, etc. Many states developed programs, especially in the income tax area.

In 1947, the North Central Farm Management Extension Committee (NCFMEC) was formed by representatives of the 13 north central states and they were later joined by Kentucky, Oklahoma, New York and Pennsylvania.

The impact of government laws and regulations upon farmers was the same regardless of where they lived. Therefore, one bulletin or form could be used by many states and these types of activities could be handled very efficiently by NCFMEC subcommittees.

The Farmer's Income Tax Guide, which has been published annually by the Internal Revenue Service since 1955, was initiated by the NCFMEC subcommittee on income tax and tax management. Initially, a regional publication entitled Income Tax for Farmers was developed and published each year from 1948 through 1954. Since that time, the National Farm Income Tax Extension Committee has cooperated with the Internal Revenue Service in preparing the Farmer's Tax Guide. The National Farm Income Tax Extension Committee is the only group of this type which meets annually with the IRS.

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### Contact Us

Email: [info@ruraltax.org](mailto:info@ruraltax.org)

In your email, please provide us with a topic, as well as which state/region you are contacting us from so that we can connect you with the correct contact.

# RURAL TAX EDUCATION

RuralTax.org

RuralTax.org



Website hosted by Utah State University  
Material developed, managed, and owned by  
the National Farm Income Tax Committee  
Informational Material on Ag, Timber, and  
Rural tax topics include but not limited to:

- Disaster/Weather Losses
- Treatment of Government Payments
- Farm Losses and Hobby Rules
- Self-Employment Taxes
- Estate and Gift Taxes
- Like Kind Exchanges
- Depreciation
- Etc...

## Items to Note:

This is not legal or tax advice and the material presented is for educational purposes only.

We will not be able to go into detail in any area due to time. This is a general overview.

Each situation is unique and what may work for one may not work for another.

Make sure you are working with a good “team” that should include an attorney that specializes in this area, a tax professional, a financial planner/advisor, and possibly a third objective party to assist with the process.

Just because you may have developed a good plan and have followed all the basics, does not mean the plan will guarantee success.

All Tax information used is applicable as of Jan. 14, 2023 and can change at any moment!

# Topics to be Discussed

- Present Estate and Succession Tax Law & Policy
- What Will These Laws Look Like in the Future?
- Items to Consider for Business Succession
- Resource Links
- Contact Information
- Questions & Answers



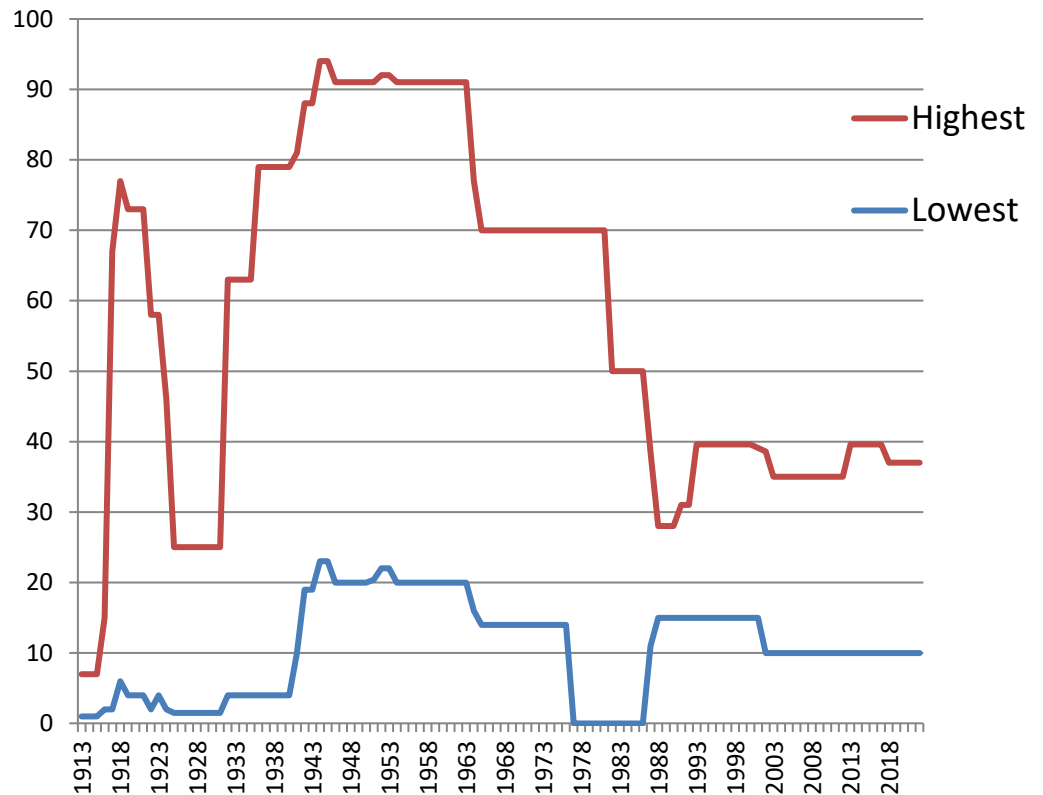
# Tax Policy



# **PRESENT LAW AND POLICY**

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# Lowest and Highest Historical Federal Income Tax Rates



## Federal Capital Gain(s)

Short-Term is taxed at Ordinary Income rates (not subject to S.E. Tax)

Long-Term

0% rate for capital gain if taxable income is less than \$83,350 for MFJ (2022)

15% rate for capital gain if taxable income is greater than \$83,350 (MFJ) up to a maximum of \$517,200 (2022)

20% rate for capital gain if taxable income is above \$517,200 (2022)

Some items can be taxed at the 28% rate (i.e. collectibles)

C-corp capital gains rates are the same as earned income (21% rate)

# Long Term Capital Gains

- Graduated Scale for LTCG tax rate to be paid based on income level.

2022 Long Term Capital Gains Rates						
	Single/Individual		Married Filing Jointly		Head of Household	
	Above	Top	Above	Top	Above	Top
0%	\$ -	\$ 41,675.00	\$ -	\$ 83,350.00	\$ -	\$ 55,800.00
15%	\$ 41,676.00	\$ 459,750.00	\$ 83,351.00	\$ 517,200.00	\$ 55,801.00	\$ 488,500.00
20%	\$ 459,751.00	And Up	\$ 517,201.00	And Up	\$ 488,501.00	And Up

2023 Long Term Capital Gains Rates						
	Single/Individual		Married Filing Jointly		Head of Household	
	Above	Top	Above	Top	Above	Top
0%	\$ -	\$ 44,625.00	\$ -	\$ 89,250.00	\$ -	\$ 59,750.00
15%	\$ 44,625.01	\$ 492,300.00	\$ 89,250.01	\$ 553,850.00	\$ 59,750.01	\$ 523,050.00
20%	\$ 492,300.01	And Up	\$ 553,850.01	And Up	\$ 523,050.01	And Up

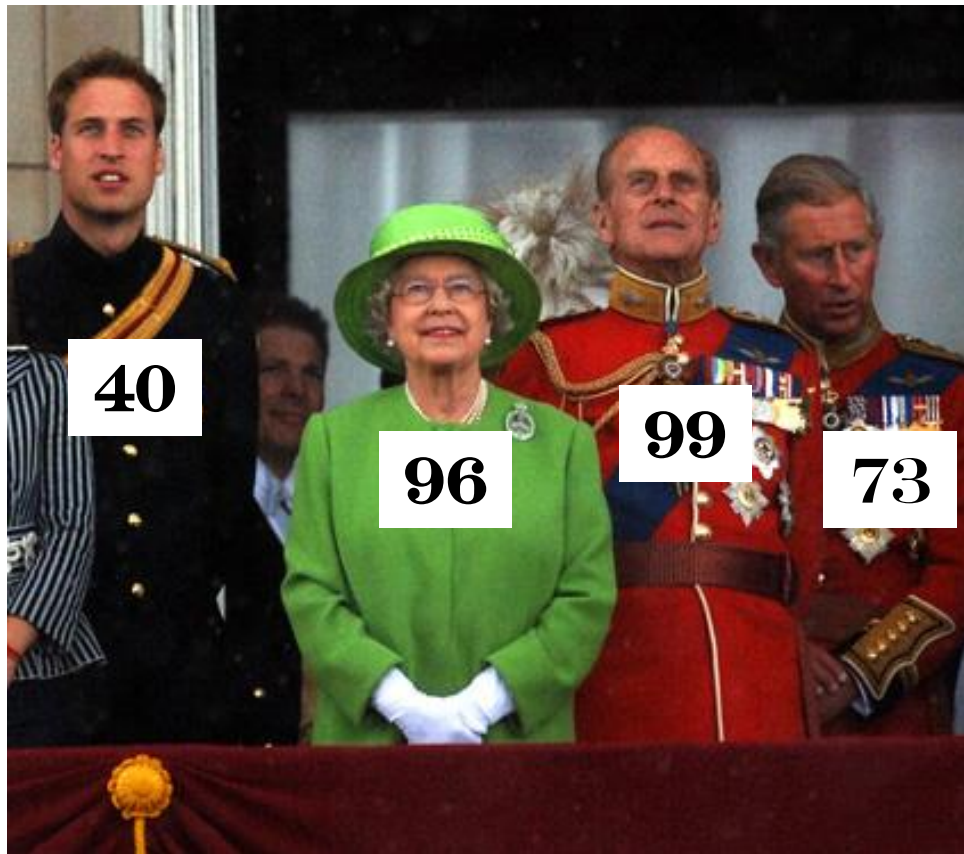
# Estate and Gift Taxes

- Estate and Gift Tax **Lifetime Exclusion/Exemption** (2018 – 2025)
  - 2010: \$5,000,000 (Per Person) base year w/ increase every year as an inflation adjustment
  - 2023: (continue to increase through 2025 Tax Years)
    - \$12.920 million per person
    - \$25.84 million for Spouses electing portability
  - **Portability**
    - Surviving spouse may use the unused portion of the deceased spouse's unused estate tax exemption (must be elected on the estate tax return)
  - **Step-up** in Basis to FMV as of date of death
- 2023: **Annual Exclusion** for gift tax purposes is \$17,000 per person who receives a gift
  - Spouses using gift splitting, \$34,000 per person who receives a gift

# **SUCCESSION AND ASSET PROTECTION**

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# Challenges in farm transition



Ages as of June 2022

Image source: <http://www.royal.gov.uk/ThecurrentRoyalFamily/Overview.aspx>

# The aging of multiple generations

- Silent
  - Should have already implemented or is it too late?
- Baby Boomer
  - Running behind but the time is now.
- Generation X, its time
  - It is time to run, not walk.
- Millennials
  - Time to start mapping your path.



# Expected Estate Dollars to be Transferred in the Future

- Silent Generation (1928-1945) expected to transfer about \$30 Trillion
- Baby Boomers (1945-1964) expected to transfer in excess of \$40 Trillion
- Expected wealth transfer to be above \$70 Trillion between now and 2050
- Generation X and Millennials will have a great time.

(Sources: Wall Street Journal, Forbes, and CNBC)

# U.S. Population Estimate by Generation (2020 Census)

- Greatest Generation – 1.33 million
- Silent Generation - 21.78 million
- Baby Boomers – 70.68 million
- Generation X – 64.95 million
- Millennial – 72.26 million
- Generation Z – 67.06 million

Source: Statista Research Department

# U.S. Mortality Rates Estimates by Generation (2019 rates per 100,000 population)

## Annual Deaths per 100,000 Individuals by Age and Sex

<u>Age</u>	<u>Male</u>	<u>Female</u>	<u>Midpoint</u>	<u>Generation</u>
25-34	117.0	78.9	98.0	Millennials
35-44	257.0	141.6	199.3	Millennials (35-41) & Generation X (42-44)
45-54	490.0	297.3	393.7	Generation X
55-64	1,111.9	669.8	890.9	Generation X (55-57) & Baby Boom (58-64)
65-74	2,178.6	1,402.0	1,790.3	Baby Boom
75-84	5,074.1	3,710.9	4,392.5	Baby Boom (75-77) & Silent (78-84)
85 and over	14,229.6	12,666.1	13,447.9	Silent

# Place your bets! (poll)

## Oklahoma State Research

Which strategy is going to be the hands-down loser across all farm types and which ones have a chance to work?

- Strategy 1: Split everything down the middle
- Strategy 2: Farm Kid gets all the assets and City Kid gets a financial instrument of equal value
- Strategy 3: FK gets all operating assets, CK gets financial instrument, and each share the land equally
- Strategy 4: Same as 3 except CK gets financial instrument equal to  $\frac{1}{2}$  of operating asset value
- Strategy 5: Lifetime farm business transfer: FK buys operating assets over a 20-year period with parents gifting during times of deficiencies (credited against estate distribution)

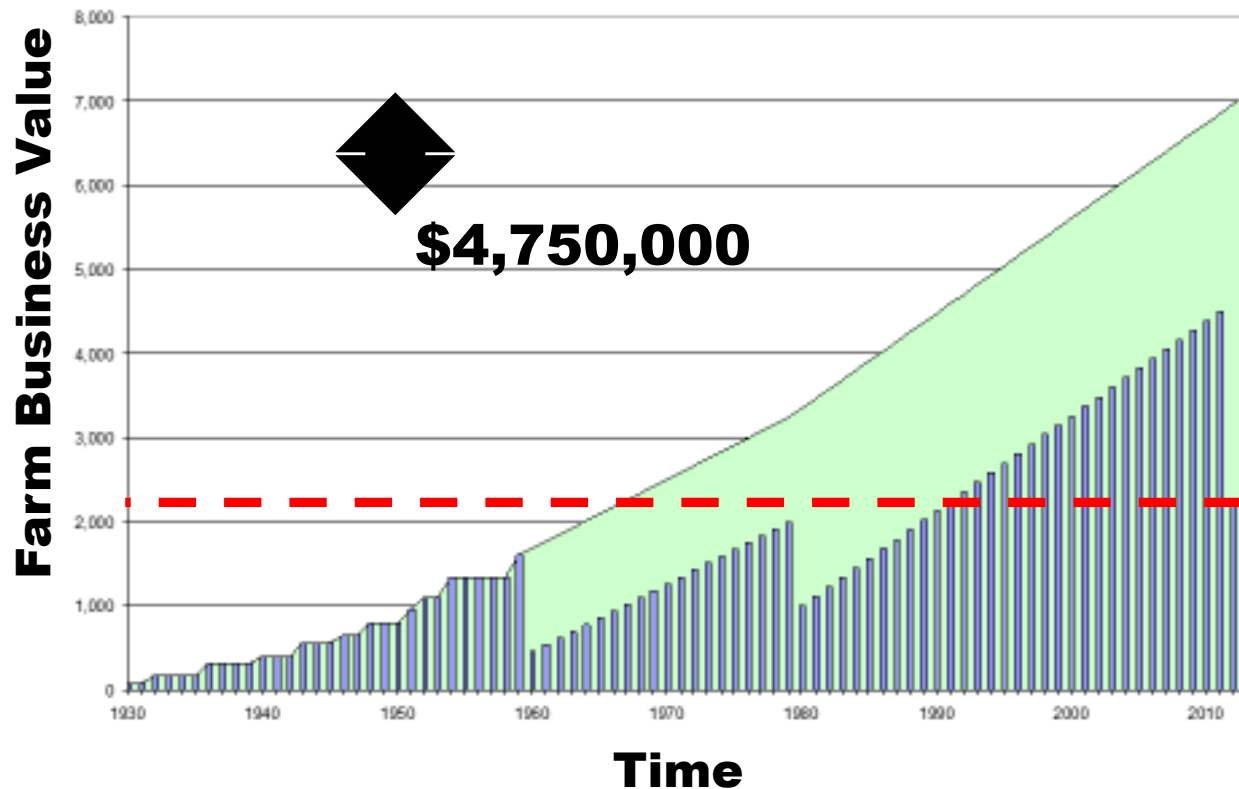
Scenario developed and used Monte Carlo method (from 20 years of net farm income) to determine potential success of a succession plan using the 5 different succession methods.

- A run defined as failure if
  - Debt : Asset ratio > 60% (virtually never met)
  - Operating debt not paid entirely every 3 years
  - Operating debt incurred (alternative)
  - Lifetime: Mom and Dad cash < \$0

## Takeaways

- How many pots of money are there on the farm?
  - Does it get divided up and is that enough?
  - How do you grow the pot or have multiple pots?
  - Any sources of income in retirement or is retirement dependent on farm resources?
  - How many families can the farm sustain?
- Splitting everything equally (used by >64% of farms) is the one with the lowest chance of success.
- Yeah, asset values matter, but so does cash flow
- Nobody talks about ratios in transition planning – it is time to fix that.
- Strategies 3 and 4 have the greatest potential

# THE VALUE OF TRANSITION PLANNING



# What is a Good Plan

- Provides for financial needs of all parties.
- Maintains Family Harmony and or between individuals.
- Creates/provides an *opportunity* for the business successors, a hand-up, not a handout.
- Flexible
- Simple, does not have to be overly complicated.
- Minimize tax liabilities.
- Communication is KEY!
- NOTE: sometimes a good plans just don't work out and it is important to continually review the plan.

## Five steps to a successful transition

- 1. Determine where you have been and where you are now**
- 2. Communicate with stakeholders**
- 3. Develop a business succession plan with your Advisory Team**
- 4. Develop a plan for your estate / gifts**
- 5. Deploy your plans / evaluate / revise & update**



# Both Generations Need to Develop Goals and Objectives

- Goals need to be specific (quantifiable not warm fuzzy)
  - What needs to happen?
  - How will each goal be completed/accomplished?
    - This may require objectives/action steps to meet each goal
  - Who has responsibility to complete them?
  - When will they be completed?

# **WHAT SUCCESSION METHODS SHOULD BE CONSIDERED?**

Out of my Cold Dead Hands?

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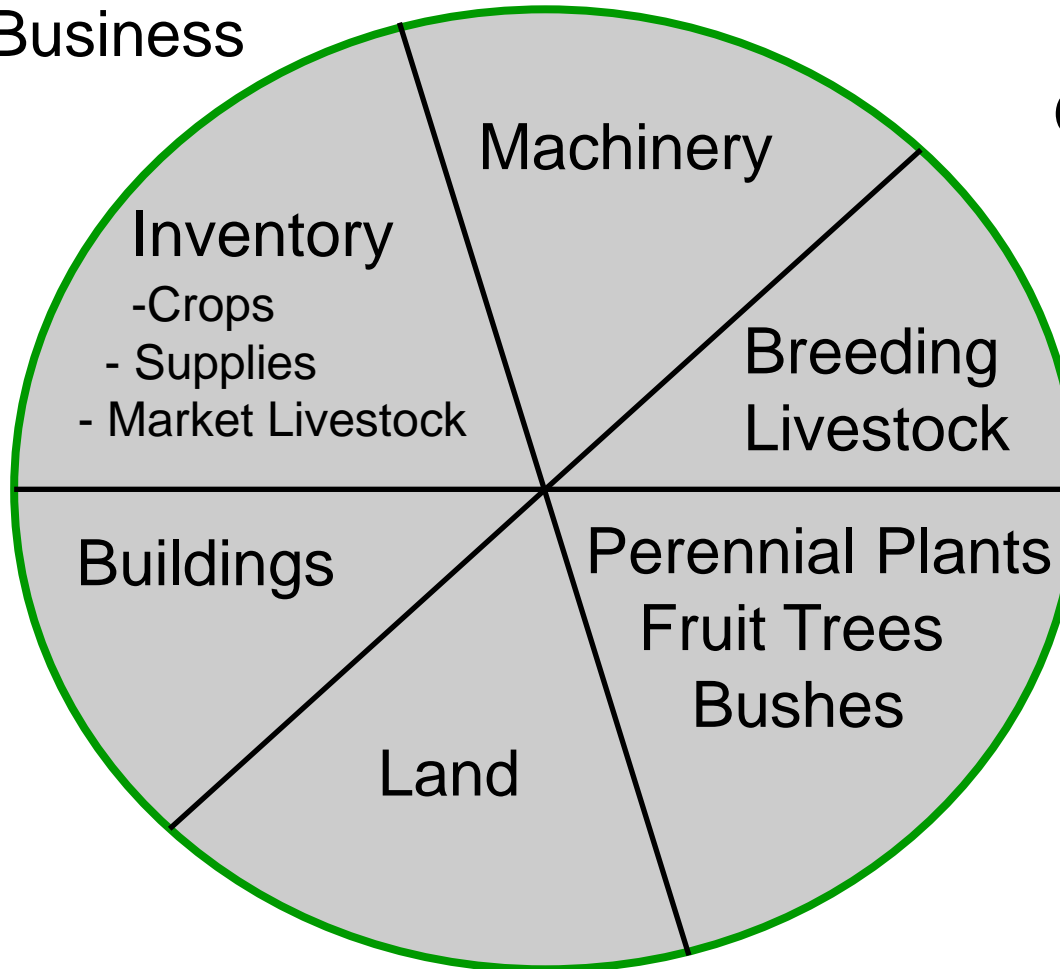
## Things to Consider Moving Forward Through the Process

- Can the Farm handle a succession financially?
- Estate Tax Law and Policy Changes?
- The farms financial stability and past performance.
- Present and future generations goals, ages, and financial needs.
- Successors vs. Heirs
  - Equal vs. Equitable

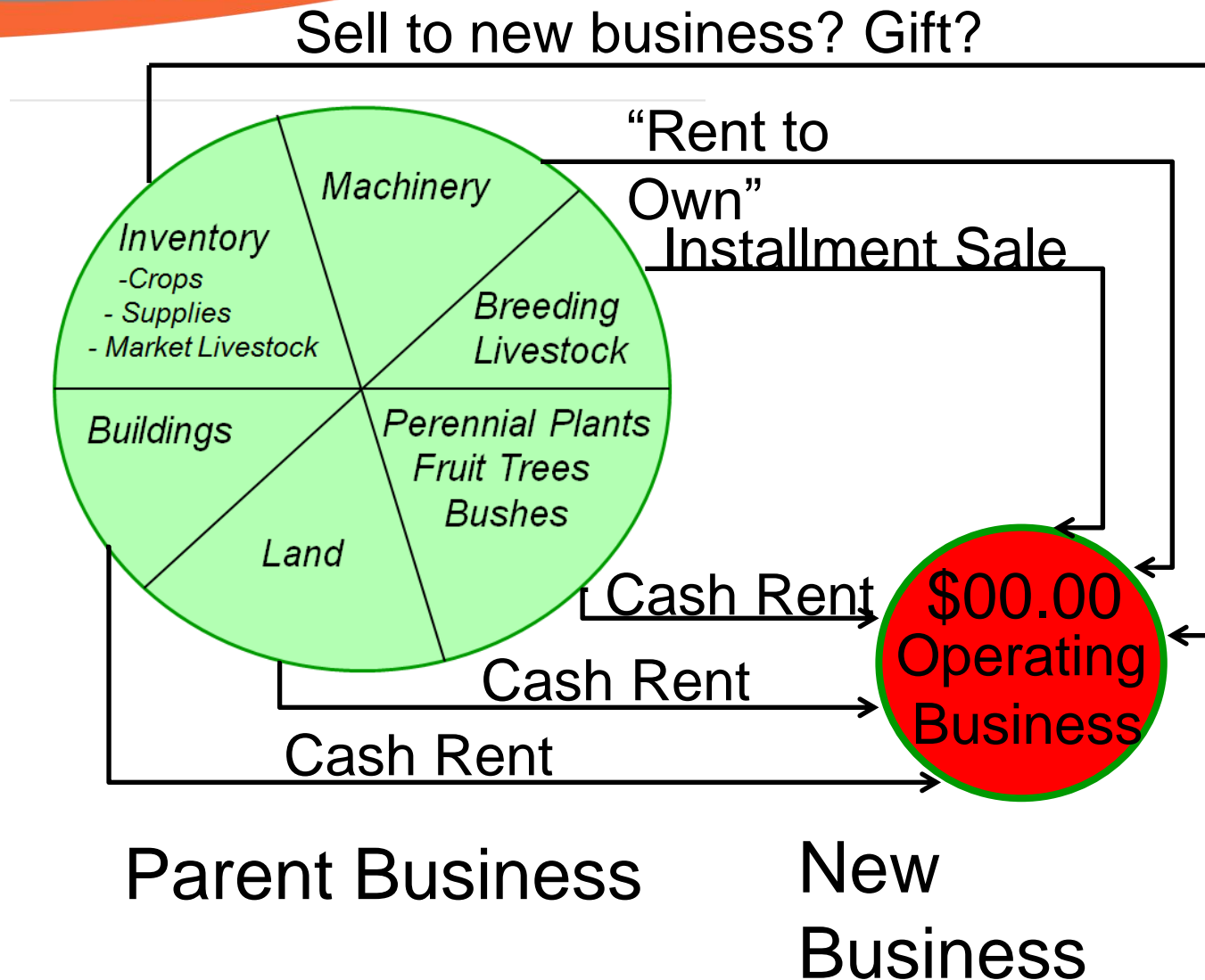
## Possible Methods to consider

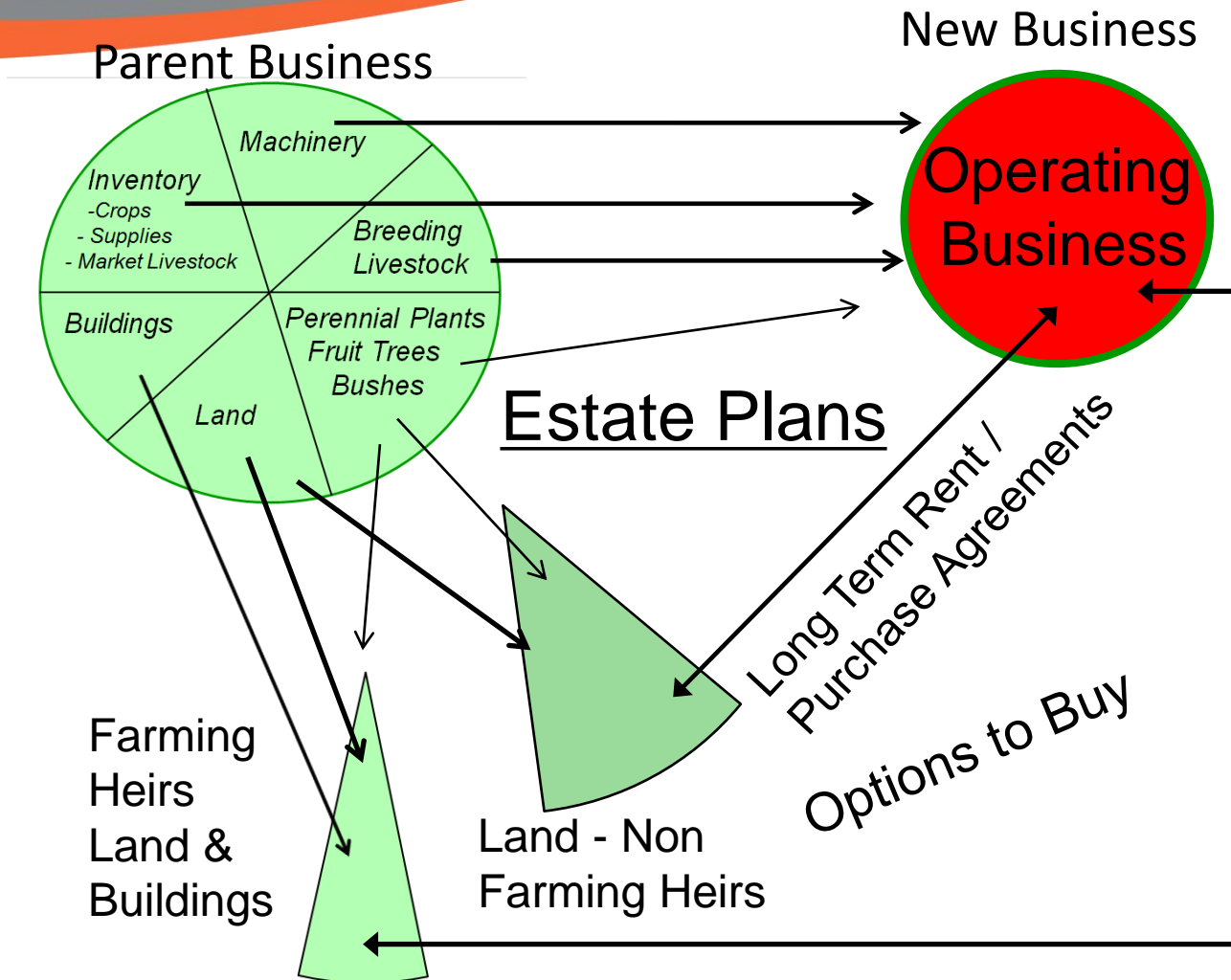
- No one size fits all.
- Some family goals may create additional tax liability.
- Consider multiple business structures with varying degrees of ownership between those farming.
- Use of renting and leasing between entities (including breeding livestock).
- MUST: save for the future i.e. use of IRA's, 401k's to prevent needing 100% of retirement income from the farm.
- Term Life Insurance and or other cash investments for non-farm heirs?
- Use of annual gifting while alive of main part of the farmstead, land and working buildings, shares of entity holding land, etc.

## Your Farm Business



Good Will ?





## Five principles

- **By not choosing, you have made a choice**
- **It's not "if," it's "when"**
- **Silence is deadly**
- **Humans crave choice**
- **You can reap what you sow**



## Summary

- There is no one-size fits all
- Develop a Team
- Run the financials to determine viability or potential success of a succession plan
- May need to utilize multiple business structures for ease of succession due to changing tax law and estate tax laws
- Always have formal documentation, even between family members
- Always work with your tax and legal advisors
- All legal and tax information is as-of May. 19, 2022 and may change at any moment

# Resource Links

Rural Tax.org

<http://www.ruraltax.org>

Land Grant University Tax Education Foundation

<https://taxworkbook.com>

USDA Farmers Website

<https://www.farmers.gov>

AgTransition, Univ. of Minnesota, Center for  
Farm Financial Management

<https://agtransitions.umn.edu>

Clemson Agribusiness Team Webpage

Farm Transition website link & other useful  
information

<https://www.clemson.edu/extension/agribusiness/index.html>

Oklahoma State University Farm Succession

<https://extension.okstate.edu/programs/farm-transitions/index.html>

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Questions  
Comments  
Ideas