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FARM ESTATE PLANNING AND IRS PORTABILITY RULING

For some farm/ranch families, deciding what to do with the family business can be very troublesome. How can we pass the farming business to the next generation while at the same time not create animosity or envy between the heirs? If we divide it equally between all the children, will it create such small pieces that the successor child cannot make a living operating the family farm? If one child is required to buy out his/her siblings, will the farm business generate enough income to make this a feasible option?

Most parents would say, "We want to treat our children fairly." Is dividing the farm equally between all the children always a fair solution? The best advice I can give is communication, communication, communication and good advice from your attorney and tax professionals.

J. David Aiken, Water and Agricultural Law Specialist, recently posted an excellent update on the 2013 Federal tax law change concerning the portability rule. This rule can simplify farm and ranch estate planning. But farm and ranch families still need to do estate planning and work with their attorney to develop and implement farm or ranch business transition plans so that the farm or ranch can continue to be successfully operated by the next generation, if that is your goal.

What is the portability rule? Aiken said this is a fairly recent tax law that makes it easier for married couples to get a double federal estate tax exemption, currently from $5.49 million to $10.98 million per estate. **So, the portability rule is a pretty good thing!** Yes—it will ease estate planning for many farm and ranch families. But you need to work closely with an attorney otherwise you can lose the benefit of portability.

Aiken says the new ruling is no replacement for planning as farm and ranch families still need to do estate planning. Families need to have a plan to transition the new generation into operating and managing the farm or ranch business. They need to wrestle with how to divide the farm or ranch among on-farm and off-farm heirs. They need to address a variety of end-of-life issues and estate planning is a very good way to do that. But if they don't, the portability rule should at least lessen any federal estate taxes due. The farm or ranch might end up being auctioned off because no farm transition plan is in place, but at least the federal estate taxes will be less.

To see the entire article go to: http://agecon.unl.edu/cornhusker-economics/2017/irs-portability-rule

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