

Farm Management

Get asset transfer perks

TRUSTS are not an appropriate estate-planning tool for everyone. However, most farmers can benefit from having a trust-based estate plan. A trust allows for probate avoidance, estate tax reductions and more control of assets after death.

Assets in a trust do not go through probate upon a person's death. Instead,



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By ROBERT MOORE

the assets are under the control of a trustee who is responsible for managing

the trust and distributing assets as required by the language in the trust. The key is that the assets must be in trust at the time of the person's death. If not, the assets must go through probate before going into the trust.

For example, Bill owns farmland and has a trust-based estate plan. Bill does not title the farmland into the trust but

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instead leaves it in his own name. Upon death, the farmland will go through probate and then eventually into Bill's trust. Conversely, if Bill titles the land into his trust by executing a new deed showing the trust as owner, the land will be in trust at Bill's death and avoid probate.

Advantages of trust

It is a common misperception that having a trust allows you to automatically avoid probate. Creating the trust is just the first step and must be followed up with placing assets in the trust to avoid probate.

Trust also can save estate taxes. In Ohio, the first \$338,333 of an estate is excluded from tax. Any value over \$338,333 is taxed at 6% or 7%. A trust plan allows a married couple to use the \$338,333 exemption twice.

For example, Bill and Mary each have a basic will that leaves everything to each other and then to their child. Bill and Mary own \$1,000,000 in assets equally between them. When Bill dies, his half of the assets go to Mary. This transfer is not taxed under the general "marital deduction" rule. When Mary dies, her estate pays tax on \$661,667 (\$1,000,000 - \$338,888). The total tax paid equals approximately \$46,700.

With a trust-based plan, both Bill and Mary's estates can claim the \$338,333 deduction. When Bill dies, his assets are captured by his trust and the trust can claim a \$338,333 exemption. When Mary dies, her assets go into her trust and her trust can claim a \$338,333 exemption, as well. So, between the two estates, only \$323,334 is taxable. (\$1,000,000 - \$338,333(2x)). The total estate taxes between the two estates would be approximately \$21,000. The trust-based plan saved \$25,700 in estate taxes.

The above example only examines Ohio estate taxes and is very basic. There are other special deductions an attorney familiar with trust administration and farm plans can take.

For people in a federal tax bracket, a trust-based plan can save hundreds of thousands of dollars and even millions of dollars. The federal estate tax rate is currently 45%. The federal estate tax exemption is \$3,500,000. Therefore, for married couples in a federal tax bracket, a trust-based plan automatically saves over \$1,500,000 in federal estate taxes.

Asset management

Trusts also provide more control over assets after death. This is especially useful for people who are worried about how their heirs might manage their inheritance. Several additional benefits are available for farmers using trusts, but the scope of these benefits can be broad and are based on the farm family's individual and unique needs. Talk to an attorney familiar with estate-planning issues for farmers to determine if and how a trust could be beneficial to you. A well-drafted, well-thought-out trust plan can save dollars for the estate, hassles for the heirs and, most importantly, help save the farm itself.

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