COLLEGE OF FOOD, AGRICULTURAL, AND ENVIRONMENTAL SCIENCES
OHIO STATE UNIVERSITY EXTENSION AGRICULTURAL & RESOURCE LAW PROGRAM

Federal estate tax tools

The federal estate tax exemption is currently $11.7 million per person and $23.4 million per married couple, but those numbers may reduce to around $5 million per person and $10 million per couple in 2026 or sooner, depending on Congress. Although you can't know which amount will apply to your estate, you can work with your attorney, accountant and others to minimize the risk of exceeding the federal estate tax exemption amount. Use these questions to help guide you.

1. **Are you keeping up with your estate's current value?** Talk with your attorney if your net worth is near the exemption level, and pay attention to events that affect your net worth such as:
   ____Receiving an inheritance
   ____Stock market fluctuations
   ____Marriage or divorce
   ____Selling or buying property
   ____Increasing land values in your area
   ____Other influxes of cash or assets
   ____Selling or leasing mineral rights, solar rights, and similar resource

2. **Do you want or need a gifting strategy?** Rely on your attorney and accountant to help you decide if you should develop a gifting plan. Remember, a recipient may lose the stepped-up basis of a gift received during your lifetime as opposed to after your death. Note your thoughts on gifting in this chart.

Gifting recipient	Type of gift	Is loss of step-up basis a concern?	Amount of gift per year

3. **Could Section 2032A special use valuation apply to your situation?** Estates that qualify for special use valuation may be reduced in value for federal estate tax purposes if all criteria exist, but making the special use election is a complex decision. Talk to your attorney and accountant to discuss planning for a special use election if land in the estate qualifies according to the criteria:
   _____Land was used as a farm for 5 of 8 years prior to death, or a family member was involved in the business with the deceased.
   _____Land will be passed down to a qualified heir.
   _____At least 25% of the adjusted value of the state is qualified real property and 50% or more of the total estate is qualified real property.

4. **Are you interested in donating a permanent agricultural or conservation easement?** Doing so can ensure protection of the land in perpetuity and can reduce the value of the estate for federal tax purposes, but has implications for stepped-up basis on resale. Talk to your attorney and accountant to determine how an easement donation could fit into your scenario.

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Business entities and tools to use with them

Business entities and tools that go with them can be useful mechanisms for accomplishing your farm transition. Consider your farming operation, the assets involved with it, the people engaged in it, and your potential heirs. What "rules" might you need? How could separate business entities, "rules" for the entities, and tools such as buy-sell agreements and leases be helpful to you? Gather your ideas here.

Entity 1

What's its purpose?	*Who are or will be the owners?*
What assets are in it?	*Any restrictions on ownership?*
How could it use leases?	*How will decisions be made?*
Will a buy-sell agreement be useful?	*What other rules could apply?*

Entity 2

What's its purpose?	*Who are or will be the owners?*
What assets are in it?	*Any restrictions on ownership?*
How could it use leases?	*How will decisions be made?*
Will a buy-sell agreement be useful?	*What other rules could apply?*

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Transferring machinery and livestock

Machinery and livestock are often the most challenging assets to transfer to the next generation. An important step in developing a plan for these assets is to define your goals and needs. These questions can be helpful:

- Do you need income from your machinery and/or livestock?
- If so, do you want one lump-sum payment or income spread over a period of time?
- Do you want to keep using the machinery and/or livestock to some degree?
- Do you want to get it out of your name now, and no longer be responsibility for maintaining and insuring these assets?
- Do you prefer instead to maintain all control of your machinery or livestock until your death?
- Do you want your machinery or livestock to benefit your heirs? If so, how?

Considering your goals, review the following advantages and disadvantages to different strategies for transferring your machinery and/or livestock. Talk to your attorney about options that might help you accomplish your goals.

Strategy	Advantages	Disadvantages
Sell outright	Generates income at one time.	All recapture of depreciation is ordinary income tax.
Installment sale	Spread income over several years.	All recapture tax due in year of sale.
Gifting	No tax. Easy to make gift.	No income produced. No stepped-up basis.
Inheritance	No tax (assuming no estate tax). Receive stepped up basis--can depreciate fair market value.	Must own till death. No income from sale.
Lease-to-own	Generates income over time. Retains ownership until bought out. Spreads income taxes over term of lease, usually 7—10 years. Delays taxes on purchase until end.	Retains liability with ownership. More recordkeeping required.