

Tax Considerations of Farm Transfers

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- ## Alternatives for transferring farm assets p. 1
1. Sale
 2. Gift
 3. Transfer at death
 4. Trade
 5. Transferring to a business entity

- ## Taxes imposed on farmers p. 1
1. Property taxes
 2. Sales taxes
 3. Employment taxes
 4. Self-employment tax
 5. Income taxes
 6. Gift taxes
 7. Death taxes

- ## Sale p. 1
- No gift or death tax consequences
 - But there are income tax and self-employment tax consequences

Example 1: Cows p. 1

Sale price of cows	\$130,000
Income tax basis	<u>0</u>
Gain	\$130,000

Example 2: Machinery p. 1

Sale price	\$58,934
Basis	<u>- 8,434</u>
Gain	\$ 50,500

Example 3: Land p. 2

Sale Price	\$295,000
Basis	<u>11,800</u>
Gain	\$283,200

Character of gain or loss p. 2

- Ordinary income (10% - 35%)
- Capital gain (0% - 28%)
- Self-employment income (15.3%)

Three categories pp. 2-3

1. Subject to ordinary tax rates and to self-employment tax

Example 4 p. 2

- Gain from calves is subject to income tax and SE tax
- Gain from sale of heifers and cows is **not** in this category

Three categories pp. 2-3

1. Subject to ordinary tax rates and to self-employment tax
2. Subject to ordinary income tax rates but not SE tax
 - a. Depreciation recapture
 - b. Young breeding stock

Example 5 p. 3

- All of the gain on the sale of the machinery is treated as ordinary income because it was all a result of depreciation

Example 6

p. 3

- Heifers that are younger than 24 months fall into this category

Three categories

pp. 2-3

1. Subject to ordinary tax rates and to self-employment tax
2. Subject to ordinary income tax rates but not SE tax
3. Capital gain or ordinary loss

Example 7

p. 3

Gain on house	\$ 120,000
Loss on shed	- 2,000
Loss on barn	- 5,000
Gain on land	<u>48,000</u>
Net gain	\$ 161,000

Example 7

pp. 3-4

Gain on house	\$ 0
Loss on shed	- 2,000
Loss on barn	- 5,000
Gain on land	<u>5,000</u>
Net loss	\$ - 2,000

Installment sale

p. 4

Gain is reported as payments are received

Example 8: \$28,320 of gain
in each of 10 years

Gift

p. 4

- Gift tax consequences
- Income tax consequences

Federal Gift Tax pp. 4-5

- Annual exclusion: \$13,000/year
- Marital deduction: unlimited
- Lifetime exclusion: \$1,000,000

Example 12 p. 5

Value of gifts	\$ 575,000
Annual exclusion	<u>- 26,000</u>
Taxable gift	\$ 549,000
Gift tax	\$ 173,930
Applicable credit	<u>- 345,800</u>
Gift tax due	\$ 0

Federal and Wisconsin Income Tax pp. 5-6

Generally, donor's income tax basis is carried over to donee.

- Exceptions:
 - FMV < Donor's basis
 - Gift taxes due

Example 13 p. 6

Value of land	\$295,000
Carryover basis	\$ 11,800

Transfer at Death p. 6

- Estate tax consequences
- Income tax consequences

Federal estate tax p. 6

<u>Years</u>	<u>Exclusion</u>
2002-2003	\$1,000,000
2004-2005	\$1,500,000
2006-2008	\$2,000,000
2009	\$3,500,000
2010	No estate tax
2011 and after	\$1,000,000

Example 15

p. 7

Value of estate	\$439,500
Lifetime gifts	<u>549,000</u>
Total	\$1,014,550
Tax on \$ 1,014,550	\$ 351,766
Unified credit (2011)	<u>- 345,800</u>
Federal estate tax	\$ 5,966

Marital Deduction

p. 7

Any amount passing to surviving spouse is deducted from the taxable estate.

Wisconsin Estate Tax

p. 7

- Wisconsin estate tax expired at the end of 2007.

Federal and Wisconsin Income Tax

pp. 7-8

- For deaths before and after 2010, the income tax basis is adjusted to the date-of-death value.
- Both halves of marital property gets a date-of-death basis.

Example 16

p. 7

<u>Asset</u>	<u>Dale's</u>	<u>Gwen's</u>	<u>After</u>
Feed	0	0	23,550
Cattle	7,000	7,000	188,400
Mach.	8,434	8,434	117,868
House	37,500	37,500	175,000
Land	<u>60,000</u>	<u>60,000</u>	<u>750,000</u>
Total	112,934	112,934	1,254,818

Federal and Wisconsin Income Tax

p. 8

For deaths in 2010, assets get a carry-over basis.

- But, by election,
 - \$1,300,000 is added
 - \$3,000,000 is added

Trade p. 8

If farm assets are traded for "like-kind" assets, gain or loss is rolled over into the acquired property.

Example 18 p. 8

Trade-in value	\$25,000
Basis in tractor	<u>- 2,000</u>
Realized gain	\$23,000
Boot	\$15,000
Basis in planter	\$17,000

Transferring to a Business Entity p. 9

Assets can be exchanged for ownership in an entity without triggering recognition of gain

Example 22 pp. 9-10

- Grandpa owns 42% of LLC
- Dale owns 58% of LLC

Example 22 pp. 9-10

	<u>Feed</u>	<u>Cattle</u>
FMV	\$47,100	\$365,500
Basis	<u>- 0</u>	<u>- 14,000</u>
Gain	\$47,100	\$351,500

Example 24 p. 10

Sale price of 20%	\$ 73,100
Grandpa's basis	<u>0</u>
Grandpa's gain	\$ 73,100

Example 25

p. 10

Value of 20% interest	\$ 73,100
Annual exclusion	<u>- 26,000</u>
Taxable gift	\$ 47,100