

# Farm Succession... Passing on the Dairy Before You Do!

Merle Good

GRS Consulting, Box 404, Cremona, AB T0M 0R0  
Email: mapgood@gmail.com

---

## Succession Planning with Dairies

### ISSUES:

- Home quarter integral to business
- Small land base
- High quota values
- Often two or more siblings in business
- Non-family labour
- Off-farm children

---

## Family Farm Succession

- **The good news...**  
Your children want to buy the farm from you!
- **The bad news...**  
They want to do it with your money!!!

## Corporate Tax Measures

### The Current Rules

- When eligible capital property (ECP) disposed of:
  - Initially, 75% of the proceeds are applied to the cumulative eligible capital (CEC) pool, which can result in recapture of the amounts previously deducted
  - 50% is included in business income and is taxed at the appropriate rate
  - 50% is included in the capital dividend account (CDA)

## Corporate Tax Measures...NEW RULES

- Example Class 14.1
- Proceed of disposition \$1,000,000
- Cost \$ 100,000
- Capital gain... \$900,000 Taxable Income \$450,000... Corporate Tax... \$228,000... 50%
- Refundable Corporate Tax. Requires a dividend of \$360,000 Reduced corporate TAX now to **\$90,000**
- **CASH FLOW**
- Dividend to Shareholder...\$360,000 Personal Tax...144,000... 40%
- Ineligible Dividend .....\$100,000 Personal Tax...\$40,000...40%
- Tax Free Dividend.....\$450,000
- **Net Cash**
- Sale of \$1,000,000... Less Corporate Tax of **\$90,000** plus Personal Tax of **\$184,000... TOTAL \$274,000**
- **NET CASH** Equals.....\$728,000.
- **Note: have to pay dividend or corporate tax, which is \$228,000...ouch!!!**

## Questions

If you have a two generation family farm with an active child farming with you, under your WILL, are any of your active farm company shares, farm land or **QUOTA** going to a non-farming child?

1. Yes
2. No

Can you afford Life Insurance to meet your objectives in your estate distribution

1. Yes
2. No

## When do you transfer the farm?



## Corporation Share Option

### Section 86 Re-organization

Assets	\$9.0 million
Debt	\$3.0 million
EQ	\$6.0 million

Determine Net Equity ..Use fair market value (FMV)

#### Question ?

Is there a discount applied for income tax, commissions etc.

Create new Preferred..

Fixed Value Shares	Parents \$5 million	Child \$1 million
Common Shares	Parents 0%	Child 100%

Estate FREEZE.. if parents want some common shares then they get some of the growth

## Steps in the Estate Freeze Process

- The existing shares are exchanged for a new class of shares.
  - Most often preferred shares with a fixed redemption amount, redeemable at the option of the company and retractable at the option of the holder.
- Parents: Convert their "draw" to redemption of equity under a 20 plus year buyout. The child now sees his parents redeeming their "equity" against the corporation.
- Rate of return...not usually charged.

---

## Estate Freeze Issues

- Parents may use preferred shares and shareholder loans for non-farming children
- Non-farming child inherits attributes of preferred shares (**DIFFERENT CLASS**) and shareholder loans
- Issue: Can holder (even non-farming child) of shares demand the \$\$\$? YES!
- Use shareholder agreement to set repayment terms.
- Also look at a pro-rata draw to set rules for exiting especially for a potential divorce.

---

## Ownership Transition: When Alive



---

## Sell Land to Jointly-owned Corporation

- NOTE: When you sell land to your corporation, you are having your corporation (i.e., "kids") pay you for the land while you are the **controlling member** of the business... and you pay no TAX!
  - How sweet is that?!
  - How about selling to a brand new land company?
-

## Shareholder Loans

- Create a tax free pension.
- Remove excess cash and investments to purify a company.
- Allow for parents to purchase personal assets with corporate cash.
- Create an off-farm asset for estate planning.
- Allow parents to help other children before they are 60!
- Can extract land later at no tax cost!

### SPECIAL CASE –Create Unique Succession Plan

- Can we:
  - allow a child a share of future growth and earnings without a large financial investment?
  - allow a child to take aggressive farming steps while still limiting risk for parent's investment?

Consider the following case (based on a real life example)

Child is already farming with you in a company.....**as an employee**

Mom and dad have some personally held land.....N ½ = \$600K value x 2 = \$1.2M

Mom and dad have some capital gains deduction left..... \$650k each

Mom and dad want to be secure with the land.....

**Mom and dad want to use their capital gains deductions!!!**

## Corporate Farm Case Study

### The Family Farm Company

Personally owned land Dad N ½ 14 = \$600,000

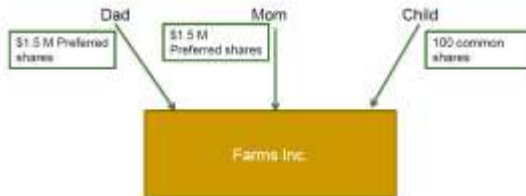
Personally owned land Mom N ½ 14 = \$600,000



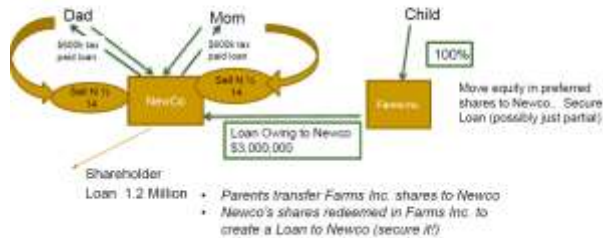
-Fair Market Value of Farms Inc. is \$3.0 M

## Corporate Farm Case Study

### The Family Farm Company – Step 1 – Freeze and Child Owns all Common Shares



### Corporate Farm Case...Step 2-Complete Freeze New structure post reorganization



## Family Farm Case Outcome

What have we achieved?

- Utilized deductions for mom & dad with the result they can withdraw cash from Newco with no personal tax consequences (if personal land sold to Newco)
- Increased cost base of land now owned by Newco
- Ability to access cash through note owing to Newco by Farm Inc. to fund retirement (agree on payment terms with Child that he/she can live with)
- Child could have controlling interest over Farms Inc. **NOTE.... in most cases still jointly owned!**

## Family Farm Case

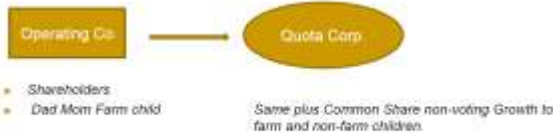


What have we achieved (continued)?

- Child still has access to equity of parents to farm and possibly expand to the extent of large loan not currently being paid out to Newco by Farms Inc.
- Wills – Newco shares to farming child and note to whomever!
  - Example ... In your WILL leave Newco shares to farming son and your note to Mom. Upon last to die can form part of non-farm estate and if so desired left to a non-farm child?
- Sum it up, we gifted shares and sold land..... instead of gifting land and redeeming shares!
- Watch out!!!
  - **GAS** clawback, AMT, annual costs, GST elections, amend your wills to match
  - What if you already have a shareholders loan?
  - What if land is increasing quickly?? Other kids could use exemptions?

## Quota Idea..

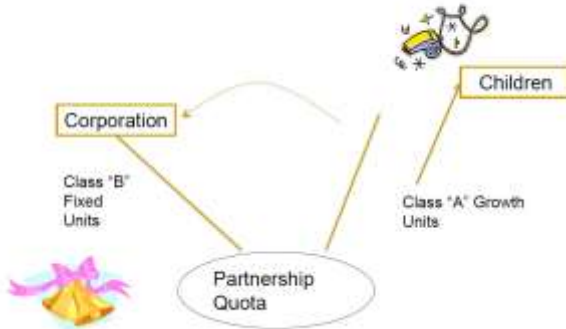
- Create new Quota corporation
- Now Use Section 55(3)(a)..no tax triggered
- Lease Quota Back to Operating Dairy Corporation. Check with Milk Board.
- Leave Quota Corp to farming child PLUS non-farm children.
- **WHY??** On sale of quota off-farm children receive part of sale.



## Quota partnership with company

- Look at rolling quota to a partnership under 97(2) . Company receives a capital partnership interest.
- Non-farm family members receive growth interests.
- Corporation has the option to acquire all partnership interests when offered for sale.
- Family members qualify for the \$1,000,000 capital gains deduction??. I think possible as long as dad controls company and member of partnership.
- Future sale to a third party triggers cash to non-farm children tax free.

Example of a Partnership Freeze Cont'd



*The End!*

GRS Consulting  
MAPGOOD@GMAIL.COM







