

## How to Be Fair With Off-Farm Heirs

One of the most difficult questions many retiring farm families face is how to get a young son or daughter started farming while being fair to the off-farm, non-farming heirs. To get a young person started farming in today's economy usually takes a great deal of parental help. This help is usually provided through bargain charges for housing, machine and land rents, interest rates, gifting of assets, supplements, and various other types of help. Unless the young person starts out with a handsome nest egg, parental concessions are needed to get the young farmer successfully started.

Non-farming heirs often leave the farm in their late teens for careers elsewhere. Most parents are concerned with being fair to all of their children at estate settlement time. Fairness, however, may not mean equal treatment of heirs.

### **Reasons farmers give for unequal treatment of heirs at estate settlement time include these:**

- Off-farm children received a college education, a down payment on a house, or other compensation, so may get less at estate settlement time.
- The farming heir helped create part of the final estate of the parents by actively contributing to the parents' business over the years, so may be entitled to more.
- Parents want the farm to "stay in the family." Consequently they are willing to give more to the heir whose goal is to stay on the farm.
- Farming heirs are getting delayed compensation for work performed in years when they were underpaid.
- Farming heirs may attend to the physical and business needs of the parents in their declining years. Non-farm heirs may not be there to help.

### **Here are several methods farmers have used to transfer assets unequally but, in their minds, fairly:**

- They have made gifts of various items to farming heirs to get them started farming. For example, livestock, machinery, tools, buildings, house use, etc.
- Some parents have sold assets at bargain prices and terms to farming heirs during their lifetime.
- Some parents have paid a fair wage to children and those wages have been used to purchase assets from parents.
- Parents have written buy/sell agreements with farming children, committing to exact sale prices, terms, and timing of payments on farm properties. These agreements are binding on off-farm heirs and provide the farm heirs a guarantee that they can buy property at an acceptable price and price.
- Farming heirs can purchase life insurance for parents with funds gifted from parents. This money is then used to pay insurance premiums. This method provides money to buy out off farm heirs at the time of the parents' death.
- Life insurance can be purchased by the parents, and make the off-farm heirs the beneficiaries. In these cases, farm heirs get farm assets and off farm heirs get the cash generated by the insurance.
- Some parents have established a living or testamentary trust. It establishes that the farm heirs have the right to purchase farm assets at predetermined prices, terms, and conditions from the trust over a number of years. The parents' will can be used to equalize previous distributions to heirs. The will may make special provisions to fit the situation.

If the farming heir or any heir has received earlier compensation, they may now get less than other heirs.

Off-farm heirs may be willed cash, non-farm assets or remote land holdings, while "base operation" farm assets are willed to farm heirs.

Farming heirs may be given greater consideration for contributions made to parents over the years.

It is a good practice to involve all heirs in the transfer process and to communicate to all heirs the final plans for distribution and transfer of assets. This communication should be done prior to your death so farming heirs are not left in an embarrassing position of trying to explain your actions.