Estate Planning For Rural Families

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Most people have the wrong idea about the expression "Estate Planning." To most people this expression implies the hiring of a group of cigar smoking middle age men (or older) to draft up some plan to keep the Government from getting all your money when you are gone! While there may be some element of truth in that idea, I want to give you some ideas about the more important aspects of Estate Planning. That is, about the Estate Planning that all of us are doing, and perhaps could do better.

Estate Planning is really the planning of your financial, business, and personal affairs toward the attainment of your personal objectives. It is a highly personal matter since the *objective* of estate planning is highly personal. No one can help you to develop a plan unless you indicate what objectives you have in mind. However, there are things that most people want, such as an "education for their children" that make it possible to make Estate Planning suggestions that will apply to many people.

The first task in Estate Planning is to figure out how to create an estate. An estate has been defined as "one's assets and liabilities". For most Canadians it includes the ownership of some property, especially a house, a farm, or a cottage. Almost everyone has assets such as a car, a camera, a sewing machine, etc. and liabilities such as a bank loan, a mortgage or a bill payable to Ontario Hydro or the fuel dealer. Therefore virtually everyone has an estate, but the size of the estate will be different between people.

Estate creation can happen in several ways. The most common is by saving a portion of one's earnings. For farmers this usually means the re-investment of farm income. A few people obtain an instant estate by winning a lottery, and many estates are created by buying life insurance and then dying! (Life insurance is extremely important and I have more to say about it later). Many other people receive some gifts from parents, or indeed inherit sizable sums from parents. All these are methods of acquiring an estate. The only one that the individual person can do much about, and live to enjoy the fruits of his labour, is that of saving a portion of the money earned. And the amount of money earned depends on the person's skills in the market place i.e. a doctor, school teacher, welder, etc. or his skill as a businessman e.g. farmer, merchant, etc.

Every person has the choice of using up all the income for personal living, or to ration the income into a portion for personal living and a portion for savings. Naturally, if the income is high, it takes less sacrifice in order to set some aside as savings for future use. Immediately one sees that personal choice is a prime factor in estate planning, and might well provoke the question "why save?" The answer is not so easy, but most people have a desire for security and independence and having "something saved up for a rainy day" helps to achieve this objective.

In starting up a farm business a young couple might well consider how they are going to organize the business. Will it be as a sole proprietorship, a husband-wife partnership, or as a corporation? Space does not permit a discussion of the relative merits of each, but at present it does appear that there is a very real advantage for many farms to be operated as partnerships between spouses. This is especially true if the farm is earning a good level of income as it means that each partner would be paying his or her own income tax, and both would be participants in the Canada Pension program. The result is that the income tax bite on the family is smaller, and the potential Canada Pension benefits much larger than would be the case if the business was conducted as a sole proprietorship.

When a young couple buy a property (house, or farm) the question of how title to the property is to be held must be faced. Title could be individually held by one or the other. Or it could be jointly held, either as joint tenants or as tenants-in-common. If the property is registered as joint tenants between "Mr. and Mrs. Smith" the most significant thing is that the property will automatically pass to the survivor should either spouse die. This transfer to the survivor can not be changed by a Will. On the other hand, ownership as tenants-in-common, means that each person has a distinct separate interest in the property such that each person's interest will not automatically be inherited by the survivor but rather will be transferred according to the dead person's will. So you see, that one of the early decisions in Estate Planning comes when you buy a piece of real property.

Farm families have at least one big difference from most of their city counterparts. That difference is that the farm family owns the place of business and the assets used in that business. The school teacher does not own the school, the classroom, the desks, etc. nor does the industrial worker own the factory, the factory machinery, or the raw products. The farm family therefore is typically confronted with the problem of using vast amounts of credit in order to purchase the farm and assets needed to make it a viable business. And the probability of being "deeply in debt" for much of one's working lifetime is one reason why farmers have special life insurance needs. Most farm families want to have their affairs arranged in a mannner that if the husband died, his wife would be at least free of debt. This enables her to have the option of continuing the farm operation, or selling out. Most farm families