

Dividing farm equally not best

By Barry Wilson

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QUEBEC CITY — When parents are deciding how to divide their farm among the children, a tricky question is how to compensate the child who has contributed the most over the years.

It is a touchy issue that can divide families, John Baker from Iowa State University told a farm succession conference Aug. 28.

He said the worst decision parents can make is to divide the property equally, and quoted no less an authority than the ancient Greek philosopher Aristotle, who almost 2,400 years ago wrote: "The worst form of inequality is to try to make unequal things equal."

Baker said deciding how past contributions to the farm should be considered and how they might be valued is complicated and should be subject to negotiations among family members.

"But I think you have to adjust the legacy to reflect compensation for past services."

Usually, the one who wants to take over the farm from the parents is also the one who has done the most work on the farm over the years.

"How do you compensate for contributions made before the farm is transferred and still be fair to the other children?" he said.

"But to give all the children an equal share is unfair to the one who takes the farm and who probably has done the most to keep the operation going."

However, he said many farmers looking at succession planning do not see things that way.

Baker, who is also a lawyer involved with farm succession services in Iowa, said a 2006 farm survey in the state showed that many believe the fairest way to divide property among children is to divide it equally.

It is a model that either forces the successor farmer to share business decisions with siblings not directly involved in the operation or saddles the new owner with debt if he buys out his siblings.

Baker recalled a 2002 conversation with a young English farmer planning to take over the farm after working for years with his father. The estate was going to be divided equally among the children, as it had been a generation before when his father took it over.

"I've spent my entire life paying off my uncles," he told the visiting American.

"Now, I'll spend the rest of my life paying off my brothers."

Baker said the comment started him thinking about succession planning.

"I thought about how inefficient it was to recapitalize the business every generation."

He said the onus is on parents to lead the discussion about how to organize farm transfer in a way that allows the farm to continue, rewards the successor for previous contributions and does not saddle the new owner with inadequate resources or onerous compensation obligations to the non-farming siblings.

He said the discussions should be businesslike and not be held at family gatherings or even on the farm.

"This is not a family discussion, it is a business meeting," he said.

"And don't be afraid to bring in a mediator if it is too tough or sensitive for the family to work out."

Baker and his colleagues at Iowa State have created a fictional Iowa family to explore ways of acknowledging and valuing past contributions to the operation.

However, he said he has seen this work in real-life succession situations. In one case, the son who worked on the farm and took it over received two-thirds of the estate while his sister with no farm involvement received one-third.

"In the real world, I've seen this done," he said.

"It can be complicated and it can be difficult to hold the conversation but better to hold the conversation now than later in a courtroom."