ESTATE PLANNING BASICS

Beginning Farmer Rancher & Development Project,
National Center for Risk Management Education
Risk Management Agency, USDA

Prepared By: Joe M. Hawbaker, Hawbaker Law Office

Need For Personal Legal Advice

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Estate Planning

- What is your estate?
- How will you transfer it?
- When will you transfer it?
- To whom will you transfer it?

Estate Planning Objectives

- Security – loss of control & cash flow
- Transfer assets
- Lowest possible transfer taxes
- Lowest administrative cost
- Least complexity
- Accomplish dispositive wishes

Estate Planning

- Keep It Flexible (revocable)
- Life changes, people change, circumstances change
- Need compelling reasons to violate this principle

Terms to Know

- Joint Tenancy - right of survivorship
- Tenancy in Common
- Basis – tax term for cost
- Marital Deduction – spouses transfer to each other tax-free

WHAT IS YOUR ESTATE

- What do you own?
  - Make an inventory!
- What is it worth?
- How is it titled?
- Use the Handout

TAXES

Federal Transfer Taxes

- Policy – at each generational level impose a federal transfer tax on assets
- Estate tax occurs on time-of-death transfers – 40% tax
- Gift tax on transfers made during life – 40% tax

The Unified Credit

- A "credit" that exempts transfers of assets from federal transfer taxes
- Each person has one unified credit
- Exemption amount is **$5 million per person** (Taxpayer Relief Act 2012)
  - Indexed to inflation: @ $5.25 million for 2013

The Unified Credit

- Each person can transfer up to @ $5.25 million free of federal gift tax or estate tax
- "**Unified**" because it is a single credit against both gift and estate taxes
- Cumulative credit: if you use it to exempt gifts made during life, you reduce the amount that remains at death

For Spouses

- Preserve each spouse's credit, if needed, to protect marital estate from transfer taxes
- Portability Rule
- Disclaimer Trust (By-Pass, Credit Shelter, etc.)

An Example

- Mom & Dad own $7 million estate
- They own it jointly with right of survivorship
- Dad dies and leaves it all to mom
- Mom has one Unified Credit of $5 million
- $2 million of her estate is subject to transfer tax at time of her death

Solution 1: Disclaimer Trust

- Mom & Dad deed their estate out of Joint Tenancy into Tenancy in Common
- Mom & Dad leave everything to each other
- But Wills say: "If my spouse disclaims any part of my estate, it goes into Disclaimer Trust"
- Amount that goes into Disclaimer Trust uses Dad's Unified Credit
- Disclaimer Trust usually benefits surviving spouse for lifetime
- Only need to use Disclaimer if necessary

Solution 2: Portability Rule

- Mom and Dad leave ownership in Joint Tenancy
- Dad dies and Mom has $7 million estate but only one $5 million credit to protect it
- Election is made after Dad dies to transfer his unused Unified Credit over to Mom
- A 706 Estate Tax return is filed in Dad's estate (9 months after death/6 month extension) to make this election: Mom now has $10 million unified credit

Portability Rule

- In a sense, Portability Rule replaces use of disclaimer (or credit shelter) trusts BUT
- May still be a good idea to include disclaimer trust in estate plan,
  - May not have to file 706 Estate Tax Return
  - Appreciation: appreciation of asset put into a disclaimer/credit shelter trust is not taxed in survivor's estate
  - Limit what surviving spouse can do with estate

Planning Zones

- Need for more complex transfer tax planning if
  - Single Person with Estate ≥ $5 Million
  - Married Couple with Estate ≥ $10 Million

Reducing Value of Estate

- Use of annual gift tax exclusion
- Discounting value for lack of liquidity or control
- Use of special valuation procedures
- Insurance owned by someone else (three year look-back)
- Irrevocable trusts
- Installment sales
- Charitable Remainder Trusts

Gift Tax: Annual Exclusion

- Annual exclusion amount = $14,000
  - Does not reduce Unified Credit
  - No need to file gift tax return
  - Additional unlimited exclusion for education gifts and medical
  - Must be gift of present interest
    - Do not reserve income to donor
    - Do not postpone donee's enjoyment of complete benefit of gift

Discounted Value

- Interests in closely-held family corporations, family partnerships or LLCs
  - May be discounted for lack of marketability/liquidity
  - Also discounted for lack of controlling interests
- A useful tool for transferring assets within the exclusion amount

Special Use Valuation

- Real estate used in family farm or closely held business: Section 2032A
  - Land is valued on basis of value as a farm and not at fair market value (IRC formula)
  - Maximum reduction in value is $1 million
  - Decedent or family member farmed land for 5 of 8 years preceding death
  - Heirs must farm for 10 years – recapture period

Insurance

- Remove death benefit from taxable estate
- Change ownership – e.g. from parents to children
- Do not make parent or parent's estate the beneficiary
- Children (new owners) pay premiums
- Parents may gift amount to children to pay premium
- BUT three year look back from date of death

Charitable Trusts

- Charitable Remainder Trust (CRT): income paid to settlor/heirs, remainder goes to charity
- Charitable Lead trust (CLT): income paid to charity, remainder to heirs
- Complicated rules, numerous variations
- Favorable tax treatment – possible to avoid capital gains tax and transfer tax

Nebraska State Inheritance Tax

Relationship	Rate	Exclusion
Spouse	0%	Unlimited
Immediate	1%	$40,000 each
– Children, siblings (and spouses), parents, gr'parents		
Remote	13%	$15,000 each
– Uncle, aunt, niece, nephew (or lineal descendants of them)		
Other	18%	$10,000 each

Nebraska State Inheritance Tax

- Payable within 12 months of death
- Penalties (5% per month up to 25% of tax due) and interest for late payment or nonpayment
- Tax is lien on real estate
- Paid to county
- Taxable value approved by County Attorney
- 3 year lookback

Nebraska State Inheritance Tax

- Basis adjustment
  - Taxable Value generally equals new basis for recipients/heirs
- Example:
  - TAV marked up to FMV (divided by .72) = $100,000: inheritance tax = $1000
  - If later sold for $150,000, capital gain on additional 50,000 at combined state and Fed rate of 25% = $12,500

Nebraska State Inheritance Tax

- Deductions
  - Funeral costs
  - Expenses of last illness
  - Debts liable for and paid at death
  - Any federal estate tax paid
  - Fees, costs, expenses in doing probate or inheritance tax determination

Capital Gain Tax

- Basis = cost: You bought a piece of land for $1000/A (your basis). Now worth $5000. $4000 capital gain in the land. If you sell, you pay capital gain tax on $4000, at perhaps 27%.
- Only way to wipe out capital gain liability without paying the tax: time-of-death transfer

HOW WILL YOU TRANSFER YOUR ESTATE

THREE BASIC WAYS

(with numerous variations)

- By Will
- In Trust
- Through Titling

LAST WILL & TESTAMENT

LAST WILL and TESTAMENT

- Traditional Tool
- The Will identifies people
  - This is me (testator),
  - This my family (heirs),
  - This is my personal representative (person who will be responsible)

LAST WILL and TESTAMENT

- Provides for
  - how to pay debts and taxes
  - who receives my property & under what terms and conditions
    - The farm, the cash, the cows (specific bequests)
    - The rocking chair & china (tangible personal property)
    - Everything else (residuary estate)

LAST WILL and TESTAMENT

- Provides for
  - Tax planning (credit shelter/ disclaimer trusts, marital deduction)
  - What happens if an heir dies before me
    - Testamentary trusts for interests of minor grandchildren, for example

LAST WILL and TESTAMENT

- Provides for
  - Appointment of guardian for minor children
  - Power of Appointment
    Leaving decisions to dispose of property to someone else
  - *In Terrorem* clause
    If anyone contests this Will, their inheritance is reduced or eliminated

A Will Requires Probate

- A legal process (court proceeding)
- Accomplishes transfer of property
- Testate – having died with a valid will
- Intestate – dying without a valid will

What is Probate?

- Will is filed in county court (public record)
- Letters of authority issued to personal representative (PR) to act for estate
- PR
  - Prepares inventory
  - Obtains appraisal, if necessary
  - Gives notice to creditors to file claims
  - PR may reject claim; lawsuit on claim may result
  - If claims not filed, forever barred

Probate Continued

- PR
  - Collects and preserves property of estate
  - Pays debts, expenses and taxes
    - Determination of inheritance tax
  - PR distributes property as directed in Will or, if no Will, then by rules of intestacy
  - Closes estate

Probate Continued

- Probate can take time
- If business asset are tied up in probate, can impair business
- PR (and attorney) need to act efficiently
- Probate can be expensive (percentages)
  - Be a good consumer of legal services

Avoiding Probate

- Reduce your probate estate to ≤ $50,000
- How to do this?
  - TRUSTS and TITLING
- But first – a cautionary word –
  - In Nebraska we still have an Inheritance Tax
  - Requires filing petition in Court, and much of the same work as a Probate
  - Also, probate provides legal resolution of estate matters – a kind of legal finality that might not otherwise be obtained
  - Probate also establishes clear title in real estate

TRUSTS

The Little Brother's Lunch

Luke & Henry are going to the fair. Their mom gives the older, Luke, $10. She says: Luke, $5 is for you and with the other $5 make sure Henry eats lunch. The first $5 is Luke's (a gift); the second $5 he holds as trustee. Luke possesses the second $5 and he has the right to spend it, but only as his mom instructed. Henry is the beneficiary, he does not possess the money but has the right to have it spent on his lunch. In legal terms, Luke has legal ownership and Henry has equitable or beneficial ownership.

If Luke spends part of that second $5 on himself, he would have violated his fiduciary duty to Henry. Henry would then complain to their mom and seek enforcement of the trust from her.

Elements of a Trust

- Settlor/Grantor
  - person who creates the trust; funds the trust
- Trustee
  - Holds title to trust property; manages and deals with trust property
- Fiduciary
  - Position of trust and confidence; the relationship between trustee and beneficiaries (like guardian/ward, principal/agent, director/shareholder)
- Beneficiary
  - Person for whose benefit trustee owns and manages the trust property
- Corpus
  - The property that is held in trust (also called trust res, trust assets, principal, or trust estate)
- Trust instrument
  - Document that embodies the terms of the trust

Basic Trusts

- Trust may be
  - Intervivos – established during life
    - Revocable - can be changed
    - Irrevocable – cannot be changed
  - Testamentary – established at time of death, often by Will

Uses of Trusts

- Protect assets from creditors
- Protect assets from beneficiaries: separate management from enjoyment
- Avoid probate or minimize probate costs
- Avoid guardianship requirements of transfers to minors or incapacitated persons
- Protect <u>privacy</u> in property transfers
- Guard against will contests (but trust can be registered in court by disgruntled beneficiary)
- Save estate tax, in <u>some</u> cases

Inter Vivos Revocable Trust "Living Trusts" - 1

- Basic Trust
  - mom & dad set up trust (trust document)
  - transfer assets into trust (fund the trust)
    - Change title on trust assets (e.g. land, accounts)
  - act as trustees during life
  - trust document states who is to get what after death of mom and/or dad
  - trust document names a successor trustee (person who will do what the trust says to do after mom and/or dad die)

Inter Vivos Revocable Trust "Living Trusts" - 2

- No need for probate to transfer assets
  - Assets can be quickly transferred after death
  - Particularly useful to avoid probate in another state where property is held (avoid ancillary proceeding)
- Property remains part of taxable estate
  - Not useful for reducing value of estate for estate tax planning
  - Beneficiaries <u>do</u> receive basis adjustment

Inter Vivos Revocable Trust "Living Trusts" - 3

- Important to transfer title of assets into the Trust
  - Title actually goes to Trustee
  - "I Jane Doe transfer this asset to Jane Doe, Trustee of the Jane Doe Revocable Trust"
- Assets not titled in trust may require a probate
- The Rancher's Bank Account Story

Will v. Trust
(as simple transfer tools)

Will
- Filed in court
- Property transfers through probate court
- Personal Rep acts for estate
- Public document
- Legal finality
- Inheritance tax determined as part of Probate
- Establish title

Trust
- No court proceeding necessary
- But no court safeguards either
- Trust remains private
- Successor Trustee takes over to dispose of property
- Trust can continue
- Good for out-of-state property
- Separate Inheritance Tax proceeding required

Irrevocable Inter Vivos Trust

- Can reduce value of taxable estate - appreciation
- If grantor/settlor does not retain interest in income or corpus of trust
  - Trust must benefit others
  - No retention of life estate in income
  - Enjoyment by beneficiaries cannot be contingent on death of settlor – must be present interest (some room to plan for minors)
  - Cannot retain power to change the transfer of property
- Transfers still subject to Gift Tax: over $14,000 per person reduces Unified Credit but appreciation occurs outside of estate

Irrevocable Inter Vivos Trust

- Can be used in long-term care planning
- Settlor may retain income interest
  - Remains part of settlor's taxable estate
- Irrevocably transfers remainder interest to beneficiaries

Charitable Remainder Trust

- Transfer property into trust irrevocably
- Trust pays settlor income for life or term of years
  - May provide for successive income beneficiaries
- Remainder of trust goes to charities after death of settlor/successor beneficiary or after term of years
- May transfer appreciated property into CRT without capital gain recognition
  - CRT may sell appreciated property without recognizing capital gain
- May receive charitable deduction

TITLING

Titling

- Tenancy in Common
  - Owners have distinct and separate interests
  - Right of possession is undivided
  - No right of survivorship
  - Each owner may transfer interest, including by will
  - Right of partition – force sale
  - Subject to claims of creditors

Titling

- Joint Tenancy
  - Survivor takes all
  - Immediate access to property after death
  - Simplifies estate settlement
  - Be specific – "as joint tenants with right of survivorship and not as tenants in common"
  - After death, property not subject to deceased creditors' claims
  - Right of partition – force sale

Titling

- Life estate and remainder – Future Interests
  - Owner transfers property subject to life estate
  - Owner becomes "life tenant" – right to possession and control, benefits and obligations
  - Transferee becomes "Remainder person"
  - Avoids probate
  - Preserves basis adjustment
  - Irrevocable
  - Property subject to life tenant's circumstances

Titling: Beneficiary Designations

- Pay-on-death bank accounts
  - Simple form available at bank
  - During your life, person named to inherit has no right to money; you can change beneficiary, spend money, close account
  - At death, beneficiary shows death certificate and ID and takes funds
  - If account owned jointly with spouse, POD beneficiary takes only after death of both owners
- Retirement accounts
  - On account-opening forms designate beneficiary
  - Surviving spouse may have right to funds, if not named
  - Roth IRA has no withdrawal deadlines, gain is tax-free, and with named beneficiary it is simple to pass on funds
- Transfer-on-death registrations
  - Register ownership of stocks, bonds, brokerage accounts with beneficiary designation
  - Beneficiary has no rights until your death

Titling: Beneficiary Designations

- Important Concern: can the beneficiaries be tenants-in-common?
  - Allows them to pass interest to heirs
- Tenancy in common may mean that in-laws end up owning the benefit
  - E.g. child predeceases parent (insured) and leaves interest to spouse
- Parent may elect to use trust
  - To provide tenancy in common (if not otherwise available)
  - To control how benefit is passed

Titling: Vehicles

- Possible to apply for new vehicle title
- Title will designate beneficiary, i.e. the person who will become new owner upon death
- Neb.Rev.Stat. Sec. 30-2715.01

TOD: A New Tool

- Nebraska Uniform Real Property Transfer on Death Act
- Non-probate transfer through execution and recording of REVOCABLE transfer-on-death deed (TOD)
- TOD takes effect upon death
- File revocation with county to revoke or file new TOD
- Execute under oath to protect v. undue influence

TOD: A New Tool

- Execute a TOD
  - Designate beneficiary (future owner)
  - Beneficiary can be individual, trust, estate, company, etc.
- Record in county real estate records
- Nothing changes, UNTIL death
- Divorce will revoke TOD to former spouse
- A Will does not change a TOD
- Requires testamentary capacity
- No warranty of title in TOD
- Property still subject to inheritance tax

Titling

- Possible to plan entire estate through titling
- For example:
  - Joint tenancy, life estate or TOD for real estate, or
  - Beneficiary designation on title for vehicle
  - All accounts have PODs or beneficiary designations
  - But grain, livestock, machinery & equipment: must have transferred ownership before death, or own it jointly with heirs (tax implications)

Titling

- Even if using titling primarily, good to have a Will in case something is missed
- Most estate plans will involve a combination of tools: Will, Trust, Titling

WHEN WILL YOU TRANSFER YOUR ESTATE

Lifetime Transfers

- During life – "inter vivos"
- Gifts, gift deeds, irrevocable trusts
- Typically passes on donor's basis to donee (no basis adjustment)
- Gift must be complete in order to remove asset from donor's estate:
  - If fractional interest in land/entity is given to child, child must receive income from that interest

Time-of-Death Transfers

- Wills, Revocable Trusts, PODs, TODs
- Donee receives basis adjustment
- Donor typically retains control over assets
- Plan is revocable
  - Keeps plan flexible: ability to respond to changes in circumstances and in people

Hybrid: Lifetime Transfer with Strings Attached

- Life estate deed, some Irrevocable Trusts
- Typically preserves basis adjustment (incomplete gift)
- Way to accomplish permanent transfer of assets but retain income benefit and some control
- May protect assets (long-term care)
- May put assets at risk (donee's creditors)

To Whom Will You Transfer Your Estate

Can Be a Difficult Question

- Who are your heirs?
- What will each heir receive?
- Will your estate carry on as a single farm or ranch business?
- Who will be in charge and when?
- Who will need income and when?
- Will estate be divided? Physically divided or divided by interests?
- Will you make charitable gifts?

Often the Hardest Question

- How to keep farm or ranch a viable family operation in hands of Farm/Ranch Heir but not disinherit the other kids?
- Farm/Ranch Heir and The Other Kids
  - Does Farm/Ranch heir deserve more?
- Does fair mean equal? Is equal fair?

Tools To Divide Benefit of Estate Among Heirs

- Life insurance
- Promissory Note/Deed of Trust
- Estate for years
- Option/Shared Appreciation
- First Refusal
- Lease
- Trust with lease provisions
- Entities – LLC, Corporation, Trust
  - Fractional ownership, consolidated control
- Buy-sell agreements

Examples: Life Insurance

- Life insurance
  - Mom & Dad purchase life insurance for off-farm heirs
  - Farm Heir purchases life insurance on Mom & Dad to buy out siblings
  - May be prohibitively expensive
  - Off-farm heirs may want to own part of family land

Example: Note & DOT

Promissory Note/DOT

- Mom & Dad leave land to Farm Heir through a Will or Trust
- Farm Heir, before receiving title to land, signs promissory note to pay siblings (non-Farm Heirs) $X over Y years at Z % interest
- The promissory note is secured by deed of trust against (some of) land Farm Heir is inheriting

Example: Estate for Years

- Mom & Dad leave land to Off-Farm heir(s) for a period of years: a leasehold
- At end of the number of years the land goes to On-Farm Heir
- Does On-Farm heir have right to farm for the term of years?
  - How structured – first refusal or option?
  - Anything other than agreement or FMV might create inheritance tax difficulty in valuation

Example: Option

- Mom & Dad leave land to all heirs in Will (or some land to Farm heir and some land to other heirs)
- Farm heir has option to buy out other heirs
  - may be for one year (during probate)
  - may be for multiple years (recorded v. land)
  - May be at FMV or lesser value
    - If lesser value, may be shared appreciation agreement
    - If Farm Heir sells land within X years, has to share the difference between option price and sale price
  - May be for lump sum or contract

Examples: First Refusal

- Mom & Dad leave land to all heirs in Will (or some land to Farm Heir and some land to other heirs)
- Farm Heir has right of first refusal
  - If other heirs receive bona fide offer to purchase from a third party
  - Farm heir has right to buy for that purchase price
  - Right of Refusal is recorded against the land

Examples: Long Term Lease

Mom & Dad leave (some) land to non-Farm Heirs through a Will

- At time land is deeded to heirs, a long-term lease is recorded against land giving Farm Heir right to rent ground for a period of years (maybe lifetime)
- Lease spells out how to determine rent if heirs cannot simply agree - formula
- May be difficult to value lease right for inheritance tax purpose

Example: Trust With Lease Provisions

Mom & Dad leave land to all heirs through a Trust

- Trust provides that land will be rented to On-Farm Heir and provides formula for determining rent
- Trust states term (years) of On-Farm Heir's right to lease
- Trust may give buy-sell/option to Farm Heir to buy out siblings interests
- Trust may terminate after X years with land going to Farm Heir alone, or being divided among all heirs

Example: Entity

LLC, Corporation, Trust

- On-farm heir controls/manages operation
  - Majority ownership
  - Voting interest (Farm Heir owns only voting interests)
  - Management through separate entity owned by Farm Heir
- All siblings share in ownership
  - Will they receive any benefit? Cash distributions?
    - Prevent "starving out"
  - Buy-sell Agreement should require distributions at least equal to tax allocation
  - Buy-sell should provide for purchase of interests from off-farm heirs

Example: Entity for Land Only

- Operating assets (M&E, livestock, farmstead) transferred to Farm/Ranch Heir alone
- Land transferred to entity owned by all kids
  - Entity leases land to Farm/Ranch heir, i.e. first right to rent
  - Entity is managed by Farm/Ranch Heir, or with others
  - Buy-Sell Agreement

Example: Buy-Sell Agreement

- Buy-Sell Agreement
  - How does business carry on
  - How do retiring or disgruntled owners get bought out
  - How do deceased owner's heirs get bought out
  - Prevent oppression of minority owners – "starving out" – i.e. no dividends, increased salaries, etc.
  - Establish value for tax purposes - maybe

Example: Buy-Sell Agreement

Three basic types

- Cross Purchase Agreement
  - Owners buy out each other
- Redemption Agreement
  - Company buys out departing owner
- Hybrid Agreement
  - Other owners & company buy out: which first?

Example: Buy-Sell Agreement An Owner Wants Out

- Owner offers to sell to other owners proportionally according to percentage others own
- Proportional offer repeated to those who purchased until all seller's share is gone or refused
- Company then has right to buy
- If not all interests purchased, seller is free to dispose of interests anyway, but not for price less than offered to other owners

Example: Buy-Sell Agreement An Owner Wants Out

- How is purchase price paid?
- Lump sum within X days
  - Do owners have funds?
  - Can funds be borrowed?
  - Easier for company to borrow if company assets needed for security
- Over time with down payment
  - How long? What interest rate? Secured?

Example: Buy-Sell Agreement

- Jill owns 20% of Family Farm LLC
- Jack owns 50%; John owns 30%
- Jill wants out
  - Sends written offer to Jack & John who have proportional right to buy: Jack can buy 5/8ths and John can buy 3/8ths of Jill's 20%
  - Jack owns 62.5% and John owns 37.5%
- If John won't buy, Jack can buy all of Jill's interest

Example: Buy-Sell Agreement What's The Price?

- Three ways to determine price – often most difficult issue
- Agreement
  - Owners agree (annually?) on value of interests
  - Simple balance sheet? – FMV less liabilities, or discounts factored in
- Formula
  - Book value
    - May be too low, depending on calculation
  - Capitalized earnings
    - What is value of receiving future income now (how many years of income? What discount rate?)
- Appraisal
  - How many appraisals? (Cost)
  - Market or replacement value for fixtures?
  - Good will
  - Discounts considered?

Example: Buy-Sell Agreement An Owner Dies

- On death of owner,
  - Shares can be left to heirs (including spouse, or only to lineal descendants?), or
  - surviving owners **have to** purchase deceased owner's shares from heirs proportionally according to percentage of ownership
- If owners/company required to purchase deceased's interest, can it be over time

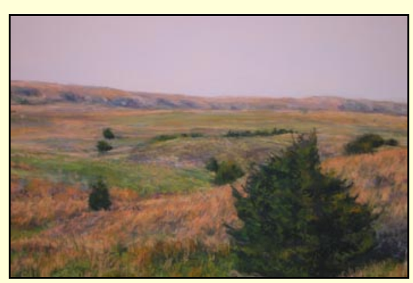
Example: Buy-Sell Agreement Tax Allocations

- In Flow-Through entities (LLC, S Corp, Partnerships), owners are "allocated" share of income of company each year – income goes into owner's 1040 as taxable income
- Buy-Sell might therefore require annual distributions to owners at least equal to tax liability

Allocation of Taxes

- Parents can allocate tax burden among the heirs
- May be simplest to allocate payment of all inheritance tax to On-Farm Heir
- May prevent difficulties of valuation
- May help to "even out" the inheritances

Some Additional Tools in the Kit



Living Will

- Medical directive or "living will"
  - Permanent vegetative state – what are your wishes with respect to life support
  - May ease difficult decisions for survivors
  - Should be part of estate planning documents

Durable Power of Attorney

- Grant of power to another to look after assets and manage affairs
- May be revoked
- Anticipates possibility of incompetence: avoids need for incompetency hearing or approval of guardian
- Statute defines powers
- May be *contingent* or *present*
  - Contingent – effective only upon incompetence
  - Present – effective when executed and continues in spite of incompetence (more customary)

Nebraska Uniform Power of Attorney Act

- Useful new law contains
  - Clarifications on authority and designation of authority: check the box format
  - Protections for principal, agent and people relying on agent
  - Guidance for agents
  - Safeguards against elder abuse and other agent abuse
- Standard POA form for use

Durable Power of Attorney for Health Care

- Grant of power to another make life and death decisions, if you are incapable
- Can revoke at any time
- May contain specific instructions as to
  - Life-sustaining treatment
  - Artificially administered nutrition & hydration

Long Term Care & Medicaid

Strategies to Provide for Long-Term Care

- Adequate income or reduction of assets
  - After tax available income
  - Earnings and asset sales
- Long-Term Care Insurance
- Medicaid safety net
  - Deprivation of Resources

Deprivation of Resources

- Transfers for less than “fair market value”
- Within 60 months of Medicaid application - “Look Back” period
- Ineligibility determination calculations
- Ineligibility period begins only after a) move to nursing home, b) spend down assets to $4000, c) apply for Medicaid and d) be approved for coverage but for the transfer

Medicaid

- Give away now
- Give away with strings attached
  – Life estate deed
- Sale on contract
- If spouse working ranch or farm, it may be excluded

A FINAL FEW THOUGHTS

Questions

- Who can get into safety deposit box
- Have you made a list of your wishes for personal property, i.e. heirlooms, family possessions?
- Where is your will/trust located?
- Should heirs know what you plan?
- Have you compiled all end-of-life information in one place, made copies?

Resources

- Nebraska Network for Beginning Farmers/Ranchers
- Nebraska Farm Hotline
  800-464-0258
- Nebraska Farm Mediation Service Farm & Ranch Clinics (Nebraska Department of Agriculture)
  800-464-0258