

Chapter 1.

The Importance of Forestry Estate Planning

FOREST OWNERSHIP

Forests comprise one-third of the Nation's land. Almost three-fourths of this woodland--about 350 million acres--is privately owned. Most of the private holdings, some 283 million acres, belong to nonindustrial owners. A nonindustrial private owner is one who does not have a primary wood-processing plant, that is, an owner who is not classified as a forest industry. Nonindustrial private owners control 60 percent of the total commercial forest lands in the United States.

A Diverse Group

There are nearly 8 million nonindustrial private forest landowners. More than 6 million hold their forest properties either as sole proprietors or in non-formal family ownerships. These two categories account for 55 percent of the nation's private woodland acreage. The remainder of the nonindustrial forest is owned by family corporations, family partnerships, or various other types of ownership entities. The typical nonindustrial owner is over 50 years old. Nearly one in five is retired. Almost half of the private forests in the United States are in ownerships of more than 500 acres, with an additional 31 percent in ownerships of 100 to 500 acres.

Forest land and timber values have been rising rapidly in many parts of the country in recent years. Often market values reflect factors other than commercial timber production. At the present time, normal estate valuation rules pose a real danger for many estates with substantial woodland holdings. Without proper estate planning, forced liquidation of family forests or severe disruption of management regimes is a distinct possibility.

What Can Happen?

Have you thought of retiring soon to try the projects that you have always wanted to do on your tree farm while you still have good health and energy? Are the thinnings, timber stand improvements, hiking trails, and the cabin by the creek still feasible?

But, can you afford to retire and still enjoy a satisfactory lifestyle? Are the children educated

and independent? How will the retirement affect your timber investments?

Going one step further, if you die today, what will happen to the timberland that you and your spouse perhaps have worked a lifetime for? Will your forest management program be disrupted in order to adequately provide for your spouse and children in an equitable manner? Will the woodland continue to function efficiently and will your spouse have adequate control? Are your forestry investments structured so that they will not lose value at your death? Will the timber management plan continue to function as an effective tool for your spouse to follow? Have steps been taken to minimize death taxes, or will timber or land or both have to be sold to pay debts?

Examples abound of forested estates that were profitable during the decedent's lifetime, but had to be partially or entirely liquidated to settle estate debts and pay death taxes. Also, in unplanned situations, the heirs may quarrel over the settlement of the estate and dissipate valuable forest resources.

BOOK POLICY

Purpose

This book has been written to assist nonindustrial private landowners in addressing the considerations enumerated above. It is designed to provide a working knowledge of the Federal estate and gift tax law as it relates to estate planning for timberland owners. The unique character of timber assets is addressed in terms of the estate planning goals of a woodland owner. The purpose is to enhance, not replace, communication with estate planning advisors, and to make estate planning more efficient through understanding the process as an informed timberland owner. In all cases, well-qualified professional advisors are essential.

Educational, Not Legal, Advice

The discussion and examples presented here should be regarded as educational, not legal, advice. The facts and circumstances of one's personal situation--goals, financial portfolio, land and timber inventory,

and special considerations--should be carefully reviewed with an attorney and estate planning advisor. The applicable laws and regulations, which are often both complex and dynamic, must be applied in the context of a specific situation and economic circumstances before making legal and financial decisions. The book is written within the framework of Federal law, but an understanding of the applicable State law that affects the ownership, management, and transfer of timberland assets should also be incorporated into estate planning deliberations. Because State law varies widely among the 50 States, much of it is beyond the scope of this publication.

Structure

This book has four major parts plus an appendix with a glossary, selected Internal Revenue Service (IRS) tables, selected tax forms, and a list of selected additional readings on estate planning. The foundation for estate planning is developed in part I. Estate planning considerations and objectives, the planning process, and valuation principles are discussed. In addition, the Federal estate and gift tax process, and the legal basis for estate planning, are addressed.

The general estate planning tools are explained in part II and integrated with forestry examples. These include use of the marital deduction, disclaimers, and strategies for gifting forestry assets. The role of trusts, life insurance, and installment contracts in estate planning are also discussed.

Part III is concerned with forestry-specific estate planning tools. The planning and requirements

necessary to qualify for and effectively utilize special use valuation, and the deferral and extension of Federal estate tax provisions is covered in detail.

The various forms of timberland ownership and their relationship to forestry estate planning are discussed in part IV. Alternative business structures for timber estates, including the advantages and disadvantages of each, are also addressed.

In part IV, chapter 19, State death taxes are treated. The basic features of the statutes in each State are discussed.

Forestry examples are used throughout the text to explain the use of various estate planning tools. The case examples draw from several regions of the United States and incorporate combinations of strategies from which to choose, depending on particular goals.

READINESS QUESTIONNAIRE

As indicated above, effective estate planning is an ongoing process consisting of three major components. The first concerns effective management of the estate assets during the decedent's lifetime. The second component, building on the first, is concerned with ensuring that the transfer of estate assets at death will be made in accordance with the decedent's wishes, with a minimum of problems and with minimum tax liability. The third encompasses nontax situations that only the decedent can address during his (her) lifetime through personal understanding of family circumstances and their interaction with effective planning. At this time, take a few minutes to complete the Readiness Questionnaire on the following page (fig. 1.1).

Check the appropriate blank to the left of each statement.

Yes	No	
___	___	1. I have discussed the requirements for cash in the event of my spouse's death. I have knowledge of the estimated Federal and State death taxes, as well as the debts and other costs, payable at that time.
___	___	2. Specific plans exist to satisfy immediate financial needs in the event of my spouse's death.
___	___	3. I know what estate planning can accomplish, have set the objectives for my own estate plan, and have discussed with my spouse a plan for continued management of the family's timberland.
___	___	4. Both my spouse and I have complete and up-to-date wills.
___	___	5. I understand the reason for probate and how it functions.
___	___	6. I know how to use trusts as an estate-planning tool for saving taxes, lessening probate costs, and managing my assets.
___	___	7. My spouse and I know how to use the marital deduction for Federal estate tax saving.
___	___	8. I am aware of the tax savings available by using the gift provisions of the tax law.
___	___	9. I understand the importance of life insurance in my estate planning.
___	___	10. I am aware of my spouse's life insurance policies and how to shelter policy proceeds from Federal estate tax.
___	___	11. I understand the different ways to hold timber property in my estate and the advantages and disadvantages of each.
___	___	12. I know how much family income will be received from retirement plans, social security, annuities, and other sources.
___	___	13. Both my spouse and I know how to contact our attorney, accountant, banking officer, and life insurance agent. We both know where important documents are stored.

Figure 1.1.--*Estate Planning Readiness Questionnaire.*

