Chapter 2.

Estate Planning Considerations and Objectives

THE HIGH COST OF DYING UNPREPARED

Do you have an estate plan? The answer is "yes"! Even if a person has not expressed his (her) desires by writing a will, the State in which a person is legally domiciled has a plan for disposing of his (her) property. In fact, all States have laws of descent and distribution. If an individual has not exercised the right to specify who will receive his (her) property at death, State law provides a general plan of rules that apply. The major exceptions are joint tenancies where property passes to the surviving tenant and life insurance contracts where the proceeds pass to the named beneficiary. Generally, the State's plan can be improved upon because there are a number of considerations that State law does not address. Simply stated, the rules are specific as to who gets the residue of the estate after the "transfer costs" have been paid.

Unexpected Heirs

When a person dies intestate (without a will), the State laws of descent and distribution determine what happens to his(her) property. The surviving spouse, children, parents, brothers and sisters, and other relatives are considered in more or less that general order. State law does vary in this regard, however, and becomes more complicated where second and third marriages are involved-especially when there are minor children. State statutes rarely consider the needs of the heirs, their contributions to the estate, or the tax consequences of the distribution.

Unexpected Values

The fair market value (FMV) of appreciated real estate, closely held stock, jointly held property, and other low current return interests may greatly exceed the value attributable to such property from current cash flows. Fair market value also exceeds valuations based on the use value of the assets (discussed in chapter 13). The Internal Revenue Service (IRS) focuses estimates of value on the "highest and best use" of the property, preferring market transactions evidence of value wherever possible. Therefore, IRS valuations may be much higher than the values ascribed to estate assets by the executor.

Transfer Costs

Transfer costs include Federal and State death taxes, and probate and estate administration expenses.

Federal and State Death Taxes.--The Federal death tax law encompasses a unified transfer tax on taxable lifetime gifts, combined with property passing at death, in calculating tax liability. The gift and estate tax rates effectively begin at 37 percent on taxable values in excess of the $600,000 exemption equivalent. They increase progressively to 55 percent on amounts over $3 million (the Federal estate and gift tax process is discussed in more detail in chapter 3). Many States have an estate or inheritance tax law that imposes additional death taxes. These can amount to as much as 20 percent of the Federal tax cost. Other States have adopted what is commonly called a "pick-up tax," which makes the State tax equal to the credit for State death taxes allowed on the Federal estate tax return. In this case, no additional tax is owed; thus, it is important to know State law for planning pur-poses. State death taxes are discussed more com-pletely in chapter 19.

Probate and Administration Expenses.--The cost of probate (see chapter 5) and estate administration expenses comprise the other so-called "transfer costs." At least some States have statutory limits for probate costs that are associated with small estates. Thresholds for the applicable amounts under small estate laws vary from approximately $5,000 to $100,000. On estates exceeding the threshold, probate expenses may amount to as much as 8 to 9 percent of the gross value of the estate. Generally, these costs gradually fall to approximately 5 percent of the gross estate value as estate size increases to $1 million. Wide variations within these parameters are possible, how-ever, depending on State law and the complexity of the estate. On larger estates, the charges should drop even more as a percentage of value if no undue problems are encountered. Administration and related costs incurred by the executor will be in addition to the cost of probate. Of course, major problems can sharply escalate legal costs--for example, a legal

challenge to the will.

On a $1,000,000 taxable estate (gross estate minus all permitted deductions as explained on page 21) the total average settlement costs (Federal estate tax plus administration expenses equal to 5 percent of the estate) would be $203,000 (see table 2.1). This amount increases to $688,000 on a taxable estate of $2,000,000. Note that on a $10 million estate the total transfer cost has risen to over 54 percent of the taxable value. State death taxes are not included in these estimates.

Loss of Leadership and Income

The owner's leadership and skill may be indispensable in successfully managing the timber property. Knowing boundary locations; having good relationships with neighbors, consultant foresters, loggers, and reforestation contractors; having an understanding of silviculture; and having timber marketing experience are all part of a knowledge base often built up over a long period of time. This experience may be difficult or impossible to replace in the short run. At the owner's death this leadership will be lost.

Nonindustrial forest owners are typically in an age group where they are at the peak of their earning power. At death these earnings will be missed.

Shrinkage Because of Liquidation

When business assets have to be sold to pay taxes and administration expenses or to retire indebtedness, shrinkage losses can often amount to 40 percent or more of the estate. These losses can result from poor market timing, breakup of efficient working units, premature disposition of assets and unfavorable financial arrangements. Partitioning the resources of an estate among the heirs may also have unfavorable consequences both in terms of valuation and management.

Ancillary Probate

Ancillary probate proceedings are generally required when real property is held in more than one State. The additional legal costs increase the estate's overall administrative expenses.

ESTATE PLANNING CONSIDERATIONS PECULIAR TO FORESTRY

Estates with substantial timber values often have many of the problems described above. They also may have additional problems that arise from the unique nature of the timberland asset and the economic climate in which the timber owner operates. The financial returns to timber investments are driven by three primary factors: timber growth (site produc-tivity), timber markets (stumpage price), and the cost of capital (interest rate). Landowner investment and harvest decisions interact in complex ways with these factors which in turn are substantially influenced by Federal and State income and death tax considerations.

Illiquidity of Land and Timber Assets

Land "dedicated" to timber production is characterized by a very long investment horizon. Timely and appropriate management decisions are important in order to establish and maintain the necessary level of timber growing stock to match earning potential. This importance is illustrated in the value growth curves for loblolly pine shown in figure 2.1. Here land has a constant price of $300 per acre with no inflation or real price appreciation. Timber value growth is based on site 60 yields (base age 25) without thinning. Site 60 is an average site for much of the south. Stumpage prices are constant and are shown at three levels--high, medium and low--taken from Timber-Mart South.[1] Note that timber income becomes possible only after age 15. Values then increase rapidly until approximately age 30, but thereafter increase at a declining rate.

The effects of the price level are shown by the three curves and illustrate the importance of developing strategies that make it possible to obtain the higher price. Because value is a function of price and volume, these curves serve as a proxy for both site quality and stocking level. As stocking levels fall, the value growth curve will shift downward reflecting the reduced potential of forestry's financial returns over time as a result of inadequate investment in growing stock. Similarly, poor land will result in lower position curves that reflect the reduced production potential. Thus, combinations of low price, poor stocking, and/or

[1] Timber-Mart South is a timber price reporting service for the Southern States that is published quarterly by Timber-Mart South Inc., P.O. 1278, Highlands, NC 28741.

poor site serve to reduce the responsiveness

Table 2.1.-- *The high cost of dying--average settlement costs at death based on Federal estate tax after 1992, plus an average administration cost of 5 percent.*

Taxable estate	Federal estate tax	Administration expense	Total settlement cost
		Dollars	
100,000	0	5,000	5,000
200,000	0	10,000	10,000
300,000	0	15,000	15,000
400,000	0	20,000	20,000
500,000	0	25,000	25,000
600,000	0	30,000	30,000
700,000	37,000	35,000	72,000
800,000	75,000	40,000	115,000
900,000	114,000	45,000	159,000
1,000,000	153,000	50,000	203,000
1,250,000	255,500	62,500	318,000
1,500,000	363,000	75,000	438,000
1,750,000	475,500	87,500	563,000
2,000,000	588,000	100,000	688,000
2,250,000	710,500	112,500	823,000
2,500,000	833,000	125,000	958,000
3,000,000	1,098,000	150,000	1,248,000
3,500,000	1,373,000	175,000	1,548,000
4,000,000	1,648,000	200,000	1,848,000
5,000,000	2,198,000	250,000	2,448,000
6,000,000	2,748,000	300,000	3,048,000
7,000,000	3,298,000	350,000	3,648,000
8,000,000	3,848,000	400,000	4,248,000
9,000,000	4,398,000	450,000	4,848,000
10,000,000	4,948,000	500,000	5,448,000

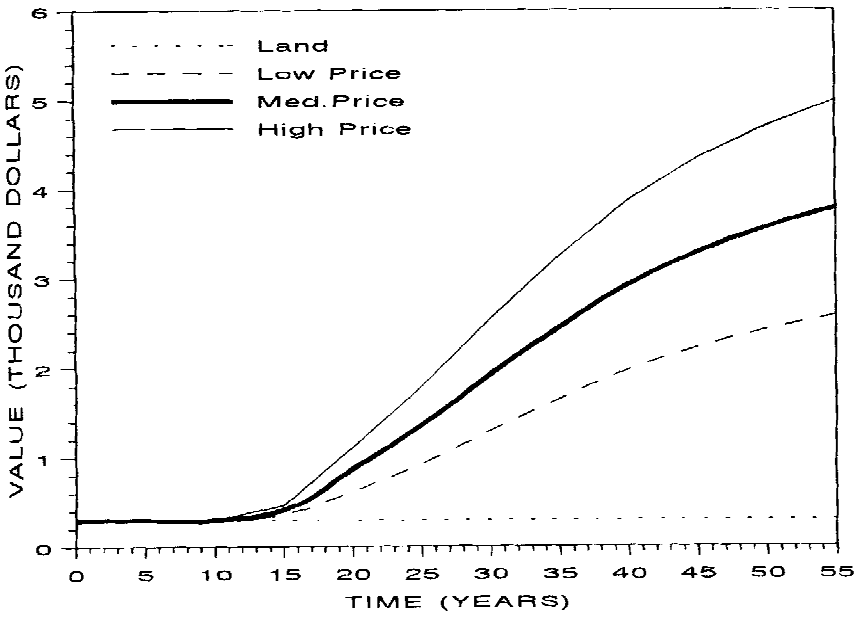

Figure 2.1.-- *Land and timber values per acre for loblolly pine plantations at constant prices on site 60, base age 25 (average site for the South). Timber value equals volume (yield) times price.*

of timber investments by lowering revenues and lengthening the rotation, which in turn increases illiquidity.

Uncertainty caused by long time horizons limits the potential number of buyers in the market for timber property. Consequently, marketing skills, timing, and luck are usually all necessary in order to obtain top prices when selling timberland. As tract size and value increase, the number of potential buyers may be further restricted simply by the financial limitations.

The example just discussed is for southern pine timberland. However, the basic principles that are illustrated should apply for most species in most parts of the United States.

While the biological process of stand value growth is regular and predictable, timber stumpage prices behave is a much less predictable fashion, sometimes with wide fluctuations over relatively short periods of time. Volatile prices often follow sharp, irregular price cycles (see fig. 2.2). For example, the average price of Douglas-fir rose from $169.50 per thousand board feet (MBF) in 1975 to $432.20 per MBF in 1980--an increase of 155 percent in 5 years. It then dropped precipitously by 73 percent to $118.20 per MBF in 1982. Six years later, in 1988, the price had risen to $256.00 per MBF. As further evidence of price volatility, the stumpage price of export grade Douglas-fir was approximately $700 per MBF during the summer of 1992, and some observers predict a price of $1,000 per MBF by 1994 because of court-mandated withdrawals from the timber supply base in spotted owl habitats.

In other regions, stumpage price fluctuations have been less dramatic but, nevertheless, important to landowner marketing strategies. In the South, for example, southern pine prices increased gradually from $57 per MBF in 1975 to $172 in 1981--an increase of 202 percent over 6 years. In 1982, the price dropped to $127.00 per MBF and ultimately to $90.70 by 1985--a decline of 47 percent in 4 years. By 1993, prices in many parts of the South had increased dramatically to between $250 and $300 per MBF. Of course, changes such as these do not matter unless timber is actually sold when prices are high. Generally, however, volume and quality will continue to increase throughout the investment period.

The cost of capital, or the interest rate, is a critical input because forestry is a capital intensive investment. Land committed to growing trees has an "opportunity cost," because it could be sold and the income invested

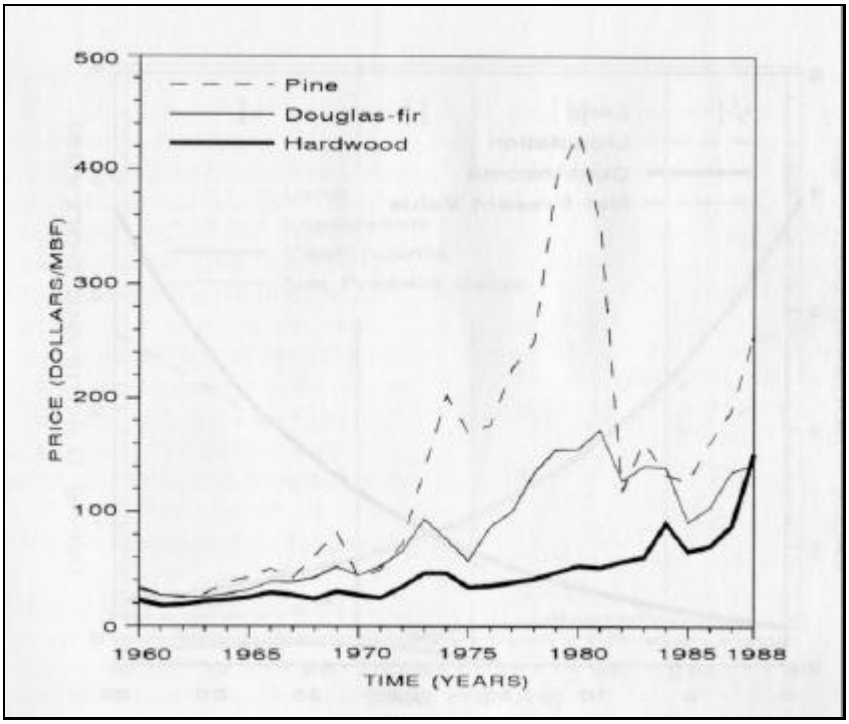

Figure 2.2.-- *Stumpage price series: 1960-88 (Source: Ulrich, Alice H. 1989. U.S. timber production, trade, consumption and price statistics 1950-87. Misc. Pub. 1471. Washington, DC U.S. Department of Agriculture, Forest Service. 77 p.)*

elsewhere. Similarly, a reforestation investment must be carried for the length of the rotation. Annual operating and management costs also accumulate and increase the direct burden of holding young timber until it becomes merchantable or of holding merchantable trees for additional growth. Any increase in the interest cost will discourage holding growing stock and shorten the rotation. This is illustrated in figure 2.3 with an 8.24-percent compound interest curve--cost/income curve--that begins with the cost of reforestation in year zero and includes the intermediate annual expenses of property taxes and management costs (the cost aspect of the curve). The 8.24-percent rate is the internal rate of return (IRR). It is found by setting the sum of discounted costs equal to the sum of discounted revenues for this investment and solving for the interest rate that makes them equal. An example of this calculation is shown in the valuation section of chapter 4. The cost/income curve not only represents the accumulating cost of carrying the investment in reforestation and annual expenses, but it also shows the income potential of expected returns from its point of tangency with the value growth (liquidation) curve of land and timber. The value growth curve is identical to the medium price curve in figure 2.1. An optimum investment length for the assumed inputs--site preparation and planting, $150 per acre; annual management costs and property taxes, $5 per acre; a no-thin management regime with stumpage prices of $15 per cord for pulpwood, $35 per cord for chip-n-saw logs, and $135 per MBF for sawtimber--is approximately 25 years at a cost of capital of 6 percent. There is a decision window of plus or minus approximately 3 years, which causes little change in the potential income to be received if the stand is harvested prior to the optimum rotation curve or carried beyond that point. The decision window shows one of the key advantages of a timber investment (that is, trees store well and continue growing). First, the owner has the flexibility to take timber income when it fits best with other ownership goals. Second, the owner can try to maximize income by marketing when he (she) feels that it will bring the highest stumpage price. Any combination of prompt reforestation (to minimize costs), low interest rates, and low annual costs that hold down the cost curve will increase the rotation length and the maximum

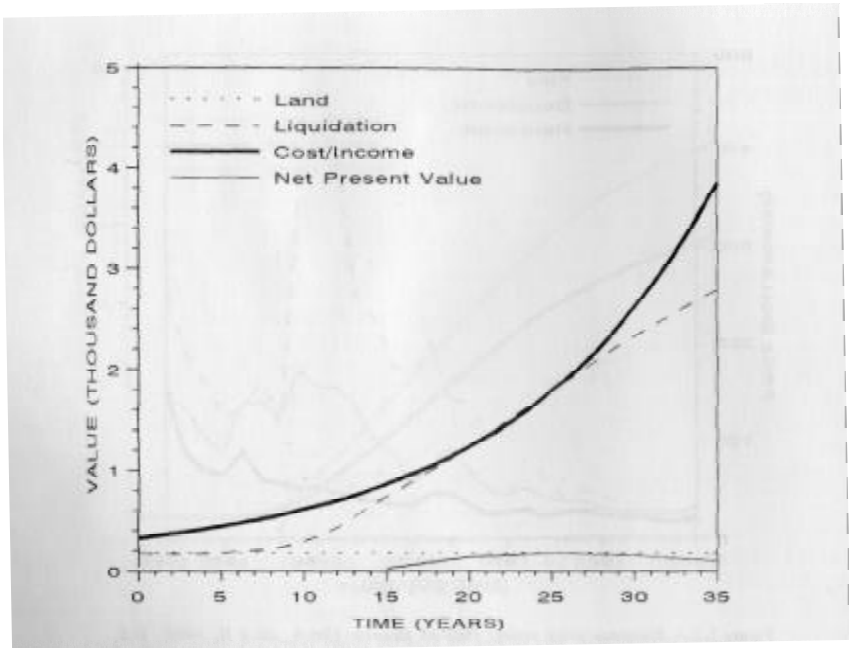

Figure 2.3.-- *Timing of timber investment and harvest decisions based on cost/income and liquidation values (loblolly pine on an average site with a net present value at 6.00 percent and an internal rate of return at 8.24 percent).*

price that can be paid for land to grow trees. Similarly, any combination of increased price, higher value products, and higher yields shifts the value growth curve upward, shortens the rotation, and also increases the maximum price that can be bid for land. This is another way of saying that costs, prices, and land productivity are logically connected. The lower the costs--such as land, reforestation, taxes, and interest charges--and the higher the returns--such as timber sale prices, hunting leases, and incentive payments, if any--the higher will be the rate of return on the tree farm investment and its asset value, and vice versa.

Low, Irregular Income

Low Income.--Low or inadequate returns on forestry assets often result from premature harvesting, overcutting, and underinvesting in reforestation and maintenance of timber growing stock. The result is that the potential of the timberland is not realized. This condition has basically the same effect as shifting the value growth curve down (see fig. 2.1). Thus the rotation becomes longer, and there is less timber to harvest.

Irregular Income.--Irregular income occurs for similar reasons because most nonindustrial private timber properties are not managed to provide an even flow of income. The average tenure of nonindustrial woodland holdings is approximately 10 years, whereas a timber rotation may vary from 25 to 50 years. Then too, the average owner's age is well over 50 years. This combination of age and relatively short tenure suggests that sporadic cash flows will be the usual case. Even in all-aged stands, excess cutting or high grading (cutting the best trees without regard for the future stand) will invariably disturb the cutting schedule and contribute to irregular income.

There are four revenue zones in even-aged forest stands that further illustrate the potential for low, irregular income (see fig. 2.4) under various circumstances. The revenue zones vary by species, site, age, and condition of the growing stock. The following southern and western management regimes illustrate the point.

1. Southern regime--even-aged loblolly pine stands on average sites (site index 60, base age 25).
   a. The income potential for premerchantable trees of 1 to 12 years of age, if liquidated

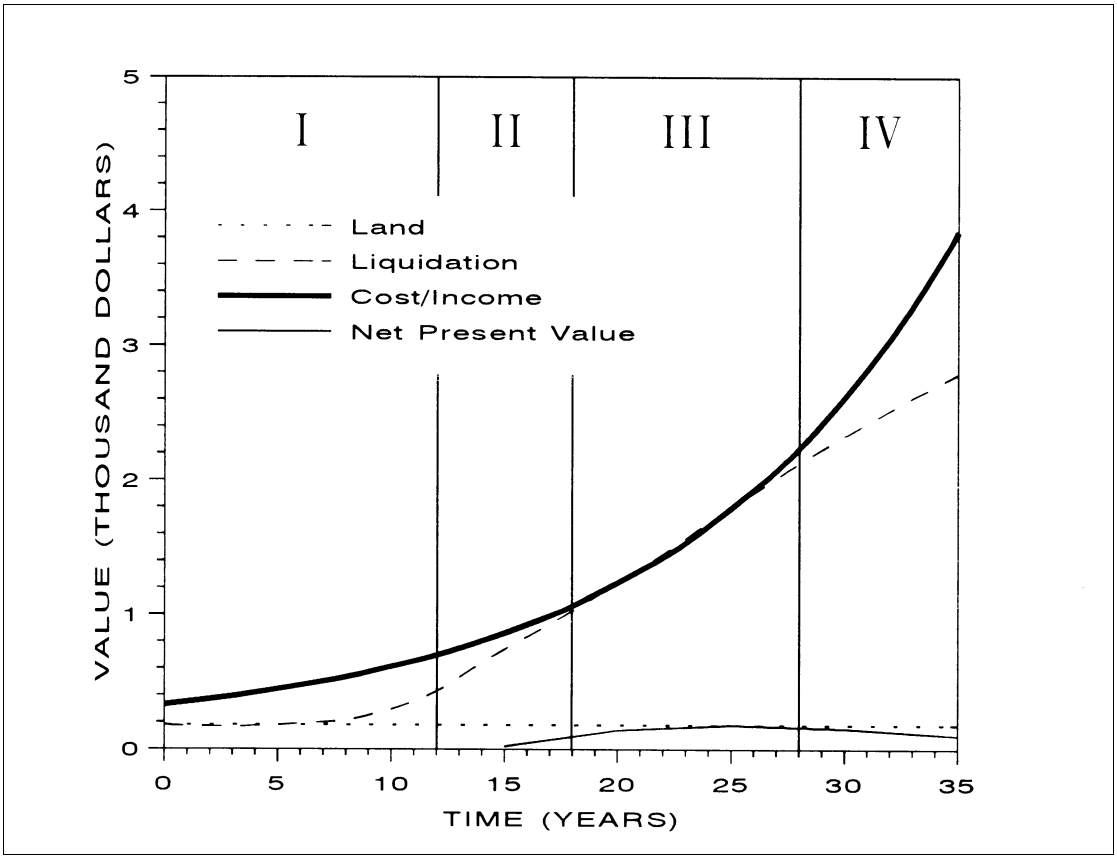

Figure 2.4.-- *Timber income liquidity zones on a per acre basis and the decision window for final harvest based on cost/income and liquidation values (loblolly pine on an average site with a net present value at 6.00 percent and an internal rate of return at 8.24 percent).*

severed from the or land (zone I) is practically zero (see fig. 2.4). Note, however, that the cost/income curve shows that land and timber is an appreciating asset that begins increasing in value from the time of reforestation. From a practical point of view,

there is some evidence that actual prices in zone I may be more heavily discounted by the market than the internal rate of return reflected by the cost/income curve in figure 2.4 would suggest.

b. In zone II, the income potential improves with opportunities to thin for pulpwood or to liquidate chip-n-saw logs (small sawtimber) in stands aged 13 to 18 years. This is a period of very high rates of value appreciation as trees increase in merchantable size. The increase in size yields a product mix that crosses the threshold between pulp fiber and solid wood products and con-tributes to the rise in value. This potential increase is greatest where sharp differentials exist among different classes of products--pulpwood, chip-n-saw, and saw-timber. As individual tree volumes increase, the unit cost for handling each product decreases, and as timber volumes per acre increase, the harvesting cost per acre decreases. Both situations contribute to an increase in the net value of stumpage for the landowner. However, note that a harvest in zone II will result in a sacrifice in total net revenue as illustrated by the gap (vertical distance) between the liquidation curve for land and timber and the cost/income curve for land and timber values (see fig. 2.4).

c. An optimum financial rotation occurs in zone III. This is the harvest timing that gives the highest rate of return or the greatest increase in owner wealth. It is shown in figure 2.3 as the point where the slope of the liquidation (value growth) curve equals the slope of the cost/income curve. The stand value continues to increase, but at a decreasing rate, whereas the cost/income curve is geometrically increasing. This zone includes timber from 19 to 28 years of age, depending on site quality, silvicultural practices, and the discount rate. The decision window for a final harvest extends to 3 or 4 years on either side of an optimum rotation for a particular set of assumptions so that the potential for loss of income is minimized. Landowner goals, estate goals, and the market hold the key to optimum harvest decisions for particular sets of circumstances.

d. The final zone (zone IV) extends beyond a stand's economic maturity (30 to 40 years). Here income losses occur from a deceler-ation of the rate of value appreciation because of insect and disease losses and decreased vigor. Such losses reduce the actual rate of return far below the oppor-tunity for a higher rate of return from a new stand. Many factors may influence a land-owner's decision to hold onto timber until it enters this zone. For example, it is often said, "That (timber) is my insurance policy! It is like money in the bank." Some owners are also reluctant to pay the income tax on harvest profits from highly appreciated stands, or they value esthetics or let other considerations influence their decisions.

2. Western regime--primarily Douglas-fir stands on average sites. The same landowner considerations come into play, but other factors such as growth rates, scale of operations, land use history, the influence of public timber ownership, and regulations produce a vastly different management environment that affects land-owner decisions. Thresholds between the zones are constantly changing as utilization stan-dards, timber prices, and other inputs vary. Increased demand and the resulting higher prices have altered the economics of growing private timber in the West in the last decade.

a. The zone of limited income from mostly premerchantable trees occurs from ages 1 to 25 years if they have to be liquidated or severed from the land (zone I). Value appreciation rises at increasing rates over time, but actual values may be heavily discounted by the market.

b. Limited income potential is possible for thinning in pulpwood and small sawtimber stands of 26 to 35 years of age (zone II). These stands are also in the zone of very high rates of value appreciation from ingrowth as increases in timber size cross the threshold

from pulp fiber to solid wood products (zone II).

c. Excellent income potential is possible as timber matures into sawlogs, peelers for plywood, and export material within plus or minus 5 years of an optimum rotation in the range of 36 to 50 years of age (zone III).

d. The rate of financial return declines as timber is held beyond its economic maturity (approximately 51 years plus) due to losses from insects, diseases, decreased vigor, and the opportunity cost of a new stand (zone IV).

Continuity of Management

Continuous long-term management under a well-defined set of goals is the most effective way to insure efficient timber production from forest holdings. This goal is clearly desirable from a societal point of view. From an owner's perspective, its primary importance is from the standpoint of keeping timber assets productive. Continuity of management, however, for all its public and private benefits, is often at variance with an owner's immediate goals and personal situation. Many variables affect an owner's particular man-agement and harvest decisions that may interrupt the continuity of management associated with an optimum return as depicted in figure 2.3. As noted above, the average tenure of nonindustrial private timberland owners is a relatively short 10 years. Even with larger holdings that have longer average tenure, the holding period rarely approaches a typical rotation cycle of 25 to 40 years in the South, and longer in the North and West. Within these short time frames, Federal tax laws further complicate the inter-generational transfer of timber property, thus con-tributing to the liquidation of growing stock and disrupting management continuity. Partitioning the estate often produces similar results. Careful planning is required to insure continuity of management and the attendant benefits.

Unitary Nature of the Forest

Economies of scale in management, harvesting, and reforestation are generally achieved only on holdings of perhaps 1,000 acres or more. The exact size will depend on site quality, species mix, markets, and other

variables. There is a rather well-defined inverse relationship between tract size and the unit cost of production. That is, as woodland size increases the cost per acre of reforestation, harvesting, and management operations will decrease.

An even flow of timber and other outputs can be achieved only on holdings large enough to have a diversity of timber stands, age classes, and species. For example, if one assumes a 40-year rotation, defines the minimum operable stand size as 20 acres for cultural treatments, and wants income every 5 years, a 160 acre [(40 years/5 years) × 20 acres] minimum of operable land stocked with age classes at 5 year intervals is required. If annual income is desired, an 800 acre minimum holding would be required (clearcut management with no thinnings is assumed). The problem, however, is that age classes are rarely uniformly distributed, and the distributions that do exist are upset as family changes or estate proceedings require liquidation to raise cash. A management plan can help to solve some of these difficulties.

Fragmentation of timberland holdings is encouraged by real estate practices and estate tax policies. Consider a 1,000 acre timber property with four parcels of approximately equal size, which have age classes that differ by 10 years per parcel. In the aggregate, an even flow of income and low cost management is possible. At the owner's death, however, one parcel each passes to the surviving spouse and three children (the values were equalized externally to account for the different levels of growing stock on each parcel). In the absence of a family agree-ment to the contrary, the death will disrupt the flow of timber income, and the cost of management opera-tions will increase. A forest management plan will not prevent this outcome if the respective parties do not reach an agreement that encompasses continuity of management for the entire acreage.

Example 2.1. Consider the 1,000 acre property noted above, which is located on four parcels of approximately equal size. The timber corresponds roughly to the four zones of figure 2.4. A timber management plan will include an inventory of the tree farm's timber stands by species, age, and condition. An operational plan will project and treat each stand based on the owner's goals (including the estate plan, if desired). The options for a 40-year rotation (investment period from seed to harvest) are illustrated by the cutting cycle: (1) harvest 25 acres per year from mature timber in zone IV for an even flow of wood products, (2) harvest 250 acres in every 10-year period when the highest prices are expected, (3) harvest the growth from all merchantable timber on a 5-year cutting cycle, (4) cut timber when the family needs money, and (5) many combinations of the above. The plan will depend on the timber market, family needs for income, and the biological condition of the forest. A forester can transform the tree farm inventory into the most effective operational plan to meet owner goals and to utilize the maximum potential of the forest.

Difficulty in Obtaining Credit

Forests are unimproved real estate and largely unproductive in zones I and II (see fig. 2.4). A timberland owner, typically over 50 years of age, with standing in the community and with forestry experience, should have excellent credit. It may be more difficult initially for surviving spouses to obtain credit, if they do not have a proven credit record of their own. It may be even more difficult for the children. The loss of income and family leadership exacerbate the problem of credit worthiness when coupled with liquidity needs of the family to cope with estate transfer costs. This is an important issue to address in the planning process.

A FOREST MANAGEMENT PLAN AS PART OF THE ESTATE PLAN

The primary goal of estate planning is the accumulation and conservation of wealth, including its transfer to heirs or other beneficiaries. With respect to timberland in the estate, a forest management plan is essential to both the goal of producing income and to that of preserving the land's inherent productivity. The plan should have both an operational and a strategic dimension. An operational plan focuses on the production of net income over a relatively short planning horizon, typically 5 years. Beginning with the current inventory, all forestry operations during this period, together with their related costs and revenues, are scheduled. These would include such activities as thin-nings, harvest/reforestation decisions, timber stand improvement work, and wildlife management practices. Annual budgets within this plan are developed to meet owner objectives, subject to the constraints imposed by the timber inventory and the market environment.

A good plan has the flexibility to make adjustments: (1) in revenues as owner needs and/or market conditions fluctuate, (2) on expenditures as liquidity and the cost of capital vary, and (3) as unexpected external factors such as changes in public policies and casualty losses interject themselves.

The short-term operational plan functions logically within the context of a strategic plan, which is developed to meet long-term forest management goals for the timberland. Species selection, stocking levels, and rotations are addressed in the strategic plan, as well as the relationships among timber, wildlife, esthetics, and other goals.

In developing a forest management plan, the scope and sophistication will depend on the particular facts and circumstances of each situation as noted above. For limited acreage and modest timber values, a relatively simple plan may enable an owner to achieve his (her) timberland objectives. As the acreage and timber values increase, however, the attention devoted to the plan should increasingly reflect the investment in the resource and its potential earning capacity.

SPECIFIC OBJECTIVES

The members of the family perhaps will have some difficulty in agreeing on the planning objectives for the estate and its timber property. It may not be easy to do, but it is necessary for development of the estate plan. Problems arise because most estate plans have multiple objectives. Invariably, conflicts arise among the competing objectives that must be solved before progress on the plan can be made. It is rarely possible to satisfy all objectives completely, so priorities have to be established for allocation of the two primary estate resources--income and property. Timing, equity, organization, and tax strategies are among the more common considerations to be addressed in the planning process. Timing deals with the choices between current and future consumption (that is, enjoyment by this generation or the next). Equity deals with the shares of inheritance among the heirs, special needs of certain family members, and contributions by various family members in building the estate. The form of ownership or business organization often must be decided in terms of who will be in control and whose philosophy of management will prevail. Tax saving strategies must be integrated with the other goals in a way that retains a balanced plan. Maximum tax savings may not always be the most desirable end. Finally, there is the element of trust. If members of the immediate family and the in-laws do not have respect and trust among them-selves, the planning effort becomes more difficult.

Pre- and Postretirement Security

Adequate resources should be allocated for the financial security and well-being of the estate owner before and during retirement. Involvement in management activities and professional interests may be important in retirement. Planning for continuity of business activities is discussed below.

Security and Compassion for Family

The financial security, comfort, and happiness of the surviving spouse, either husband or wife, should perhaps be the highest priority for most plans. The ability of the survivor to care for the children, manage daily affairs, and deal with grief due to the decedent's death must be considered. With most estates, the husband and wife have worked together for many years to accumulate the estate assets and often at considerable sacrifice. The death of either spouse is usually followed by a period of adjustment with respect to both personal and business affairs. Arranging for the survivor's comfort and happiness during this time will depend greatly on the amount and types of assets received from the estate, and on the control that the survivor has over his (her) resources.

State law usually provides for a surviving spouse to have certain minimum rights in the real and personal property "solely owned" by the deceased spouse, regardless of what may be stipulated in a will. The further implications of property ownership will be developed in part IV. Proper planning can determine if the amount to be left to the survivor in the event of either spouse's death will be adequate. Specific adjustments can then be made, if necessary, by means of a will--subject to State law. Wills are discussed in more detail in chapter 5.

Equitable Treatment of Children

State laws of descent and distribution generally provide for equal distribution of property among children. Although equal distribution is desirable in principle, it may not be satisfactory in terms of the specific needs of disadvantaged children, nor does it necessarily reflect a particular child's contribution to

building the estate or caring for the parents during their aging years. Other considerations include: (1) a large investment in a particular child's education, (2) an extra investment in one child's business or purchase of a home, (3) a financial contribution from a child to the parents in money or in kind, (4) care for children with physical or mental handicaps, and (5) differing contributions in managing the woodland. Equitable adjustments for these types of situations can be specifically addressed by the will and other planning techniques. A realistic assessment of working relationships among children and in-laws is essential. In the absence of a will, State law will control the distribution of the decedent's property.

Continuity of Timber Enterprise

The time required to settle an estate will generally vary between several months and several years, depending on the complexity of the settlement. Plans should be made for continuity of management of the woodland, or assets and opportunities can quickly disappear. It is essential to take advantage of favorable timber markets within the context of the forest management plan and to make timely investments in reforestation and cultural practices that keep the assets productive. Protection from timber trespass, theft, and natural hazards (insects, diseases, and wildfire) is also important. Proper planning will insure that an operational timber management plan continues in force. The will or other instrument should direct that business operations of the estate continue during the critical transition period.

The long-term plan must recognize the needs and contributions of both spouses, as well as those of the children. It should also be structured to the greatest extent possible to insure continued operations after the death of the decedent.

Minimize Transfer Costs

Generally, one of the principal goals of estate planning is to minimize the impact of transfer costs at death. As discussed earlier, transfer costs include Federal and State death taxes, probate expenses, and the costs of administering the estate.

Minimizing Tax Liabilities.--Careful attention to the tax consequences of property disposal is required. Gifts made during the decedent's lifetime may be subject to gift taxes. Gifts have specific advantages and disadvantages that are discussed in chapter 8. Property given to the spouse during the decedent's life or at death is shielded from tax by the marital deduction, but this only defers the ultimate payment of the tax as discussed in chapter 6. State death taxes, which vary greatly in scope among States, must also be considered. Careful planning is required to minimize taxes without jeopardizing other objectives. This requires that a husband and wife make a fundamental choice: (1) minimize taxes at both deaths and pass the maximum value to the children, or (2) minimize taxes and other costs at the death of the first spouse, leaving the surviving spouse with the maximum possible wealth and control over estate assets. The latter approach will ultimately cost the children more in estate taxes and administrative costs.

Minimizing Administrative Costs.--Certain steps can be taken to reduce administrative costs, and even to avoid probate, but at the cost of flexibility and perhaps additional taxes. Because all choices have advantages and disadvantages, they should be carefully considered in terms of the overall objectives.

Provide Flexibility and Durability of Plan

There are always tradeoffs in saving estate taxes. Rigid plans rarely work well over long periods of time because of changes in the law and the economy. It is generally best to choose an executor who can be trusted to make decisions that benefit all concerned to the maximum extent possible and to provide the flexi-bility to do so. However, where necessary to protect the interests of a specific heir, the desired outcome should take precedence over flexibility.

ESTATE PLANNING TEAM FOR FOREST LANDOWNERS

Attorney

The family attorney usually has the primary responsibility for coordinating the estate planning process. If he (she) lacks sufficient knowledge of the Federal and State laws affecting the transfer of real and per-sonal estate assets, an attorney specializing in estate planning should be engaged. When particular compli-cations exist or difficulties in the business operations warrant, expert help is well advised. The attorney guides the formation and articulation of owner objec-tives, supervises the inventory of personal data and estate assets, and works with other professionals to evaluate

alternative estate planning strategies. The attorney drafts the will and other legal documents that are required to execute the completed estate plan, including supervision of changes in property titles and insurance beneficiaries to conform them to the plan.

Certified Public Accountant (CPA)

A CPA understands the complex interplay among the estate, gift, and income tax laws, and prepares and files the appropriate tax returns and other tax documents. Because he (she) typically has access to the client's financial and tax records, the CPA can discuss appropriate estate-planning opportunities.

Banker

A banker, who may be both lender and corporate trustee, often has an awareness of the financial needs of the estate. The banker can help explain the financial and tax aspects of alternative planning choices. He (she) has expertise in the trust department that can be utilized during the decedent's lifetime and also later by the survivors and has knowledge of how various types of trusts can help meet specific estate planning objectives. The role of trusts in estate planning is covered in chapter 10.

Chartered Life Underwriter (CLU)

A CLU can develop an insurance program that will provide the kind and amount of life insurance required to meet the estate's estimated financial needs. The purchase of life insurance can provide the liquidity necessary to cover the estate's transfer costs, insure protection of estate assets, and build estate assets at critical times. In some States, insur-ance consultants offer professional estate planning evaluations for a fee that is dependent only on the service provided rather than on the sale of a particular insurance package. The recommended insurance coverage can then be purchased from the company of choice, with consideration being given to price as well as to the company's strength and rating.

Forester

A forester is not a member of the traditional estate planning groups; nevertheless, he (she) provides an invaluable service if there are substantial timber assets in the estate. A forester can prepare a forest management plan that specifically addresses estate-planning goals and functions as an integral part of the overall estate plan. The forest management plan will include projections of capital expenditures and management expenses on the cost side, and projected timber revenues on the income side. These projections are then worked into operational plans that meet net revenue targets specified by the owner's estate plan objectives. Operational plans are typically prepared for 5-year intervals as part of the longer range strategic management plans. The strategic plan is designed to provide a long-range view of cash flow levels that are consistent with the amount and distribution of the timber assets. The forester routinely brings management, marketing, and harvesting skills to the planning process, but often has knowledge of timber tax issues and how they interact with other estate considerations.

Inventory

Consultations with professional advisors should be preceded by a personal fact-finding process that includes an analysis of the family situation, and current and projected lifestyle desires and financial needs. The fact-finding process also includes an inventory encompassing the description, form of ownership, and value of all estate assets. Legal descriptions of all real property, locations of deeds and other important documents, and all indebtedness should also be listed. Projected values for all assets should be made for the next 5 years. The forest management plan will provide the basis for timber volume and value projections. Insurance policies, beneficiary designations, and policy options need to be reviewed.