

Planning Protecting and Preserving Rural America

A Collaborative Approach to Succession or Exit Planning for Farmers and Ranchers

James Moore



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Dear Reader,

Thank you for making the choice to get this special report.

Every year, lots and lots of people like you deal with trying to create a farmers/ranchers exit plan that actually works. You might even be surprised how many of you're fellow farmers/ranchers in your region have gone through exactly what you are dealing with right now.

The farmer/rancher succession or exit planning industry is at a crossroads. Your farm or ranch probably isn't. At least not today. But the decisions you make today make all the difference in how you navigate the crossroads moments to come – and they're likely to be heavily and *negatively* affected by how so called "succession planners" advise you.

After years of thinking "we need to get information out to farmers, and ranchers" I finally concluded that the risks facing farmers/rancher are just too high to not get it out *now!* So you now hold it in your hands! This report is about *empowering* you to create, maintain and implement a successful exit or succession plan, a plan that will actually work. No matter how you're currently positioned, my goal is to help you begin the process of putting together a plan that works for you and your farm or ranch– and the time to start is now!

You may be a newer farmer/rancher with few issues but a lot of responsibility.

Perhaps you are a pre-retiree finally building the worth of your farm or ranch to a point where you can begin to transition out of your farm or ranch or change the relationship you have with your farmers/ranchers now that the kids have been educated.

Many readers pick up reports like these because they are beginning to think about retirement and recognizing that this farmers/ranchers “exit planning thing” might now actually need to be considered a reality. Still others due to economic or family issues or faced with a healthcare crisis personally or in their family. You may have very specific concerns regarding the best way to transfer your farm or ranch, handling complex assets like retirement plans, or leaving a family or charitable legacy. In every case, **NOW** is the time to get started or to update any planning you’ve done before.

You should know that there is a path for you.

I also have a piece of good news for you... By getting this report, you have taken the first of several steps you need to take for a successful outcome. You could have ignored this information and kept on sifting through all the random pieces of information available to you online. Instead, you are now have a comprehensive resource about exactly how to create an exit or transition plan that works, with people who care.

Greg and his dad were referred to me by their Financial Advisor to discuss some basic tax and estate planning questions. During the process of helping both of them and their families to create a Family Wealth Protection Plan™ the question of what to do with the family fruit farm/orchard came up.

This was a third (hopefully to be a fourth) generation very large and very profitable fruit growing operation with no formal farmers/ranchers structure in place at all. Like a lot of farmers/ranchers they wanted to address most, if not all, of the issues you will see as question number 6. of the Frequently Asked Questions that follow in this report.

In addition to Greg, Dad had two other sons and a daughter. Greg was the only one interested in continuing to own and operate the farm. His parents were struggling with trying to be “fair” versus “equal” due to the fact that because of Greg’s hard work, beginning while he was in high school, not only had the farm grown tremendously, but his parents were able take lots of time off to go south for the winter and take vacation cruises.

We ended up putting together a structure and a solution which included putting the farm operations and equipment into a general partnership, putting the land in two other separate LLCs, and creating a revocable trust centered plan for both Mom and Dad, and Greg and his family.

The end result was;

- ❖ Zero Federal Estate tax
- ❖ Zero capital gains tax
- ❖ Zero family disharmony

Plus, the farm can/will stay in the family for as long as there is a “blood” heir who wants it. The only “loser” in all of this was “Darth Vader—aka the IRS; the Probate Court System; and any potential “Creditors and Predators” who may show up in the future.

At the same time, we also proactively helped the rest of the family create an *Empowered Estate Plan* that now fully protects all of them. Bottom line, the entire family now has peace of mind not just a piece of paper.

That story is one of many that we have handled at Moore and Kerbawy Law.

Once you have look through this report, please feel free to call us to discuss your situation. My hope is that you will look to us for help when you need it. We are excited to serve you!

Sincerely,

James L. Moore

P.S. I am just a phone call away at 616–813-7099. Make sure you mention that you downloaded this report and we'll answer whatever questions you may have!

PLANNING PROTECTING AND PRESERVING RURAL AMERICA

Without family farms/ranchers, the quality of life and economic strength of America will diminish. The preservation of individually owned and operated family farms/ranches is a major problem facing America today. The farm and farmers/ranchers as a whole have been virtually ignored because the problems facing them are unique and complex. There also seems to be an assumption that farming/ranching is not a profitable occupation, which farmers/ranchers do little to discourage, because the bulk of their investment capital is reinvested in their farms and ranches rather than outside investments. Today the individual net worth of most farmers/ranchers of farm or ranch land exceeds that of 70% to 80% of the general population and their total net worth represents the largest pool of wealth in America today. However, most of this wealth is illiquid and gaining access to it would subject that wealth to capital gains, depreciation recapture, income taxes, federal estate taxes, property tax increases and so on. And, just like everyone else, farmers/ranchers hate taxes. So, The PP&P program was designed to offer farmers and ranchers a way to pass on ownership of their operations, while at the same time allowing them to minimize and even avoid most of those taxes.

Why is it so difficult today to transfer a farm or ranch to the next generation? Probably because the most commonly accepted method of transferring farm or ranch ownership, the installment sale, is so completely inflexible and expensive that younger generation potential farmers and ranchers are refusing to enter into this arrangement. Similarly, other programs currently being offered are so one-dimensional that there is no guarantee they will perform as promised when

called upon.

The PP&P program offers younger generation farmers/ranchers a guaranteed method to purchase the farm that involves minimal taxes, zero debt, and extreme flexibility. We are told that the P PNP program is probably the best and only safe way a farm or ranch can be transferred today.

Just so everyone understands the role of Moore & Kerbawy, “counselors at law,” we do not sell product – we provide solutions. Our clientele are the professional advisors and other attorney specialized experts who collaborate with us as we work to help build and service “our mutual clientele.” Every farm/ranch transfer must be tailored to fit the individual farmers/ranchers needs; but it is also essential that the result will be the same for all farms/ranches. This can only be accomplished by the use of standardized procedures and documents tailored and customized to comply with both current federal and state laws. The problems facing rural America today are multi dimensional, and the PP&P program has been designed to embrace and implement a unique process of professional collaboration because no single profession or interested organization has the expertise to solve all of the problems alone.

What exactly is the problem?

Family farms/ranches are the life blood of rural America, but if over the next decade these individually owned family farms/ranches are not passed on to a new generation of individuals, those farms/ranches will disappear and with them will go the communities they presently surround. Installment sales have been the traditional method of passing the farm/ranch on to the next generation or key employee but it is

no longer a financially viable approach because it encompasses prohibitive amounts of debt and taxes and is extremely inflexible. It became obvious that unless a better method of transferring the farm/ranch was developed, most current farmers/ranchers will die with their lands still in their estate to be divided among their heirs, often unfairly and with the accompanying potential family disharmony. Once this fragmentation begins on a large scale, there will be no future for rural America.

Moore & Kerbawy, Counselors at Law have developed the P P&P Program, as a comprehensive solution to the problem of successful family farm/ranch transfers. Our success is based on a collaborative effort involving professional advisors and the rural farmers/ranchers communities. Previous efforts to solve the problem fail because each profession approaches the problem from its own perspective, especially federal and state governmental agencies and local agencies, which meant they only dealt with part of the problem. The PP&P approach is multi-faceted in that it blends everyone's contribution into a team effort to achieve successful transfers.

This approach has been distilled down into the following core issues. First, a satisfactory "Succession or Exit strategy" for the present owner. Secondly, an attainable "Entrance and Growth Strategy" for the incoming operator.

Passing on the family farm/ranch will work best if the land and the assets of the farm/ranch operation pass as separate entities. It requires sound and complete estate planning, tax planning, asset protection planning, and expert accounting procedures.

Due to ever-changing laws and complicated tax codes, the days of checkbook accounting and friendly handshakes will no longer suffice. To survive in today's economy, farmers/ranchers will have to rely on their professional advisors and take advantage of every "free bridge" the law and the tax codes will allow.

What is the solution?

The PP&P program addresses every issue of a farm/ranch transfer from the perspectives of both the buyer and seller. The buyer remains debt-free and the seller retains control of their land until death with the assurance that the transfer will be completed for cash at that time. It is a comprehensive, flexible, and incredibly tax efficient approach to the transfer. It provides answers to all of the seller's problems. If the buyers are not in a position to implement PP&P program, they simply cannot afford the farm. In that case a new potentially outside buyer must be found.

Briefly, the following are the advantages of the PP&P farm/ranch transfer program.

- ❖ Ensures is an adequate lifetime retirement income for the seller and spouse.
- ❖ Allows the sellers to keep control of the land until death.
- ❖ Avoids debt and minimize taxes.
- ❖ Provides the buyers with a flexible and cost-efficient way to own the farm/ranch.

- ❖ Provides sellers with the opportunity to treat all heirs equitably.
- ❖ Provide sellers with the opportunity to give something back to the community should they so desire.

How will it work?

Moore & Kerbawy, Counselors at Law will act as the quarterback or umbrella organization that will facilitate and support the creation of the planning team that must work in collaboration. Those advisors as a team will be able to build upon the knowledge gained by our countless relationships, contacts, and networks as well as years of hard work, persistence and experience. The program will assure the transferability of the entire structure and process so everyone will be treated the same and have equal access to the most effective strategies.

Members of an “ideal” team:

Financial advisor: Acts as the catalyst for the team and provides broad knowledge and financial planning as well as overseeing and providing any future service needs the plans may require.

The Estate Planning Attorney: has the responsibility of implementing a complete and thorough counseling based estate plan including the design, drafting, and implementation of all the transfer documents. From the legal perspective, it is the attorney’s job to facilitate an integrated and comprehensive estate plan and farmers/ranchers transfer. This role is often filled by Moore & Kerbawy.

The Community: There currently are multiple resources and concerned parties working independently who can leverage their efforts to benefit both the farm/ranch family and the community including local banks, equipment dealers, co-ops, local churches, and community foundations.

The objective or goal is the creation of a comprehensive, customized, succession or exit plan that will actually work and provide the owner with peace of mind not just piece paper.

Frequently Asked Questions

1. What is the best time to transition or leave or slow down my farm/ranch? The answer to this question depends entirely on what you see the future holding for you. You may want to die driving your tractor! Some farmers/ranchers say they want to be carried out on their shield! Or you may wish you were out of there next month. That is what the counseling session regarding an exit plan is all about, answering this very important question: When, in terms of years, do you want to exit or transition your farm or ranch?
2. What is the best way to leave my farm/ranch? Again, this depends entirely on the analysis and review of the other steps in the exit planning process. As I said before there may be 50 ways to leave your lover; but there's really only four things you can do with your farm/ranch. The more in-depth discussion you have about these different techniques and strategies, the more clearly you can decide which one is the best fit for you.

3. Is it really possible to control the taxes? Absolutely! Part of our goal here at Moore & Kerbawy Law is that when we wake up in the morning we want the IRS to say, “Dang it, he’s awake again.” The reality is that the income taxes cannot be eliminated. But they can be deferred, deferred, deferred, and manipulated.
4. What are the risks of waiting? No one has a crystal ball, all we have is today not tomorrow, and we all hope for the best. By waiting we may run out of time to do the planning properly, “life can happen”. In other words, we don’t know what can happen to us tomorrow physically, economically, or otherwise.

That’s why Chapter 12 of my book is called “live too long or die too soon, the longer you live the longer you live, but once your dead you’re dead!” The bottom line is in my experience it’s been the sooner you start and the more attention you pay to your exit plan, just like you did in creating and running your farm/ranch the better the experience will be when and if the time comes to leave your farm/ranch.

Answers To The Questions You Didn’t Know To Ask

1. What expertise do you have in doing this process? We have extensive training through the Business Enterprise Institute and experience in working with private farmers/ranchers to accomplish their objections and solutions regarding the transition or exit from their farm/ranch.
2. No one can know everything. How do you arrive at the “right” outcome? We don’t try to be an expert in everything. Through our own experience and through our other relationships we either help a farmer/rancher ourselves or find the right advisor

for any of the strategic areas that we analyze.

We often play the role of “general contractor” and will work with you to get the outcome you want through our network of experts from around the country.

3. What if I’m unhappy with the outcome? Our work is always guaranteed, you can stop the process any time you want. We will gladly refund any money we have received as long as you provide a reasonable explanation regarding any disappointment you have with our process.
4. How much time does this process take from beginning to end? We have completed the entire exit planning process in as little as four weeks in an emergency situation. Our normal time from the beginning of our engagement to the end is usually about 8 to 10 weeks.
5. We find this time frame works well for our clients and also helps us deliver a high quality experience. We also provide an agreed to written timeline for each step of the process.

Which leads me back to the Plan Protect and Preserve process., The key is comprehensive, customized, written instructions for your exit plan. These instructions should be the foundation of the written Farmer/Rancher Roadmap which should also include an implementation process. It’s all about peace of mind and not just piece of paper!

We believe you should develop your plan with counseling-oriented planning partners. We also believe that much of what passes for Exit Planning this country today is little more than word processing! We don’t believe you should pay a licensed professional to do mere word processing. Their value is in their counsel and advice based on knowledge, wisdom and experience.

There are three basic principles I've learned during the years I have practiced: Things change, people are different, and everyone dies. That's why committing yourself and your farm/ranch to creating a comprehensive written exit or transition plan will ensure that it is ready when you are..

Call me at 616-813-7099 if you have additional questions about any or all of this. I would love to hear from you, and your questions may also help us improve future versions of this guide!

How It Works

1. Seminars and workshops. We offer an ongoing series of these free events to educate people about how all of this works.

2. Pathfinder Meeting. We meet with you one-on-one for a complimentary one hour meeting to answer any and all of your personal questions about the law, our process, our fees and our expectations. As Mom always said "It's a two way street so look both ways". Are we the right firm, are you the right client, is this the right time?

3. Discussion Draft. This is a 2 to 3 hour "closed door" private counseling meeting for you, your team, and sometimes your entire family to lead you through the first steps of the Plan Protect and Preserve Process and begin to narrow down and clarify your goals and choices.

4. Working Draft Meeting. This is a 2 hour meeting to revisit your design template, review your actual documents, and sign them.

5. Final Draft. We work together with you, your financial advisor, and your CPA as a "team" to make sure your plan is properly implemented.

6. Maintenance and Review Program. We provide a way to keep in touch with you via our newsletter, an annual “Happy Anniversary” letter (as in, you are a year older, and so is your plan) and offer an opportunity for you to come in for a review if your family, health, or financial circumstances have changed significantly.

Want to meet with us to discuss your situation and how an Empowered estate plan could help you actually create a plan that works? Call me at 616–813–7099 to arrange a free consultation.

The End Result

Below you will find testimonials and a couple of stories of people who have gone through the process you just learned about. As you will discover, it doesn’t have to be difficult and help is available to you.

“We went to Jamie on a friend’s recommendation when we needed to put together a living trust to protect our resources in the event of either one of our deaths which would be untimely no matter when they happen. He walked us through the entire process without a hiccup in it and even helped me put together a partnership buy-sell agreement for my farm. During that process he consistently worked for my best interest even when he had to go at odds with my accountant and other planners. Further, I have recommended him to others several times since and all have reported excellent results, especially those who had an immediate need from an unforeseen death for which the family had no preparation in place. You couldn’t find a more competent, knowledgeable, or compassionate attorney.”

“We have used Jamie several times for issues requiring technical and legal advice from someone with a keen understanding of the

law and the features of how the legal system works.

He has always given us excellent advice and kept us well informed of the progress of the matter without spending unnecessary time on useless details.”

Marge was referred to us in the state of total chaos. Her house had recently burned to the ground destroying all of her worldly possessions including her beloved pets.

While discussing with her the need to put a plan in place to protect herself in the future in the event of her untimely death or disability we discovered that one of her daughters had been robbing her blind of her money behind her back. She was even attacked by this person at one point and had to be hospitalized. We were able to intervene and create an Empowered Estate Plan for her which completely removed her daughter from the picture. Her plan also included finding sufficient helpers for her, making sure that when and if she does pass away there be no hassles and messes, no probate court fight, and no intervention by her estranged family. Unfortunately we see this type of situation all too often. All of which can be prevented with planning.

Susan was referred to us by one of our clients. She was facing a fight with her sister over the guardianship and conservatorship of her mother. During the discovery of the facts and circumstances which led to the probate court case we discovered that her sister had not only been depleting her mom's assets, she was also trying to redirect her dad's assets to her care so she could waste them as well. We were able to have her sister removed as a potential guardian for her mom, redirect and protect her dad's assets, and create a new Empowered Estate Plan for dad that disinherited his selfish and unprincipled daughter completely saving another potential court fight and the unnecessary wasting of time, energy and money.

As luck and life would have it Mom died shortly thereafter and, believe it or not Dad also died a short time later. The emotional loss to our client was devastating but at least the majority of Dad's wealth and values were preserved.

Our team is standing by to help you. As a matter of fact, we look forward to your call and the chance to serve you as we have served many others in our community. While we certainly can't guarantee any results, we may be the right law firm for you. The best way for us to find out is by calling me at 616-813-7099 to arrange a free consultation.