



Estate Planning for Texas Family Forest Owners

Did you know...

As the current landowner, you have likely built up knowledge over many years. This gives you significant insight into management practices needed to maintain the health and productivity of your land. You have also built relationships with neighbors and management service providers, many of whom have assisted you in building your land into what it is today. These things are lost with you and must be relearned by your heirs. An estate plan can serve as a guide until your heirs can build their own abilities.

Did you know...

Ideally you and your spouse would be active in the process, so that when one passes the other is knowledgeable of the plan and the future of your forest.

Get involved!

The information given in this publication is for educational purposes only. Reference to commercial products or trade names is made with the understanding that no discrimination is intended and no endorsement implied.

Educational programs of Texas A&M Forest Service are open to all people without regard to race, color, sex, disability, religion, age, or national origin.

WHAT IS ESTATE PLANNING?

Estate planning is the process of planning for the willful transfer of personal property over time and after death. Estate planning also enables someone to legally act as the sole decision maker for the property in the event of a disability. In simple terms, estate planning is how you communicate how and who gets your property after your disability or death.

Family forestland and woodland owners own over 71 percent of the forestland in the state. For many landowners, the wish to bequeath (pass down to heirs) forestland is a primary reason for owning land. However, these landowners are often faced with daunting questions: will the forestland remain in the family? Will the next generation sell? Will my heirs manage the property as I wish it to be? A carefully prepared estate plan will address these questions and may lessen fear, anxiety, and tension within the family.

Unfortunately only 35 percent of adults in the U.S. have completed an estate plan. This number has declined in recent years because estate planning seems too daunting, involved, and expensive. This fact sheet outlines the procedures to get started building your estate plan to ensure the intact transfer of your forestland with a minimum tax burden.

GOALS OF ESTATE PLANNING

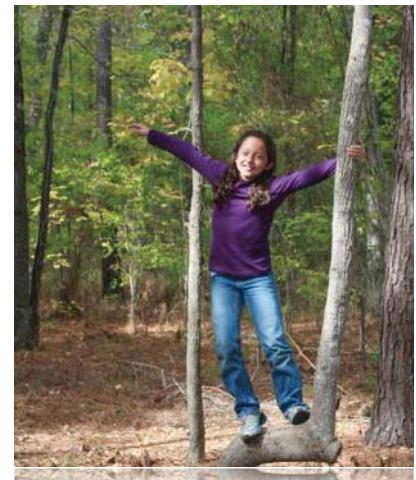
Establish guidelines to dispose of your assets as you wish after your death: Death and illness can be difficult to face, making estate planning a trying process. The process is important because it allows distribution of your assets as you see fit. Be careful to avoid being forced into a complex estate plan that you do not really want.

Minimize taxes and probate costs: Taxes and fees currently start at 40% of the current market value at the time of death (or date of gift). Planning now can avoid probate and unnecessary administration expenses.

Retain flexibility: Estate taxes change constantly. Family circumstances change, too. Be wary of any estate plan that is so overly complex or inflexible that it cannot be adapted to changing circumstances.

HOW DO I START?

Determining family goals and objectives: The estate planning process starts with determining your goals and objectives. Some family members may have made greater contributions or have more needs or interest in family business than others. Therefore fair, all-inclusive involvement and healthy discussion among family members is one of the first critical steps in estate planning. Schedule a family meeting to talk about the legacy you wish to leave behind. Discuss needs, milestones, hurdles, and all available options.





Taxes to Consider

The Federal Estate Tax: an excise tax on the right to transfer property at death based upon the Fair Market Value (FMV) of the estate assets.

The Federal Gift Tax: an excise tax on lifetime transfers, again measured by FMV.

The Federal Generation Skipping Transfer Tax: a punitive tax designed to penalize attempts to transfer property beyond the next generation by essentially assessing a “double” tax, again based on FMV.

State Tax: no Texas state inheritance tax exists at this time.

Exemption

For 2015 the exemption is \$5.43 million per individual, which means a couple can “pass” \$10,860,000 upon the date of death without any tax.

Inventory all of your assets: Make a list of your real estate, other personal property, cash, insurance policies, stocks, etc. All of these items will be counted as part of your taxable estate. To do this, have your property appraised by a qualified individual. A complete appraisal of your assets includes physical inspection of the property, research of deeds and local land use regulations, a complete investigation of market conditions, and a value determination. Similarly, landowners need to know the financial value of the timber growing on their land separate from the value of the land itself. A forester can determine this value. Various financial calculators within the Timberland Decision Support System (<http://tfsfrd.tamu.edu/tdss>) developed by Texas A&M Forest Service can also provide assistance.



Identify your forestland management goals: Forest management activities such as thinning, harvesting, prescribed burning, and reforestation promote sustainability for future generations. Planning early increases the potential for reaching your goals while a “do nothing” or “wait-and-see” approach can be risky. A written forest management or Stewardship Plan will help guide you in prioritizing goals and objectives, and can be used as part of your estate plan. Landowners can benefit from Texas A&M Forest Service's Forest Stewardship Program that encourages the long-term stewardship of private land in Texas.

Put your team together: The estate planning process can be very complex and is often not a do-it-yourself venture. Success depends upon establishing a good team of experts including a qualified estate attorney, an accountant who specializes in estate planning and is familiar with forested properties, a forester or natural resource specialist, and perhaps even an insurance agent.

CHOOSING AN ESTATE PLANNING ATTORNEY

Estate planning is a matter of state law. Different states have different laws. Use an estate planning attorney from Texas that knows Texas law including timber, oil, and gas law. Be wary of do-it-yourself programs as these are developed for generalized American law and may not work well for Texas. Interview several candidates, talk to each about what you want, and pick the one who is most attentive to your wishes. Avoid individuals who are trying to fit your situation into a standard format. Texas allows attorneys to specialize in a tax field. “Tax” or “Estate Planning” certifications require the attorney to pass an additional professional examination, take continuing education courses, and have significant experience in the field. Consider seeking an attorney with specialized certification. Texas Board of Legal Specialization provides a searchable website for *Estate Planning* specialization at <http://www.tcls.org>. The following are some easy concepts that apply to all estate plans and should be discussed thoroughly with your attorney.

- *Annual gifting:* Tax code for 2015 allows you to gift \$14,000 tax free.
- *Independent administration:* This eliminates almost all probate court proceedings and costs.
- *Avoid ancillary probates:* This can be easily avoided by placing the asset inside a Texas entity.
- *Choice of executor:* This choice should be carefully considered as it is a difficult job to perform.
- *Removing assets from the estate:* This is done through gifting, insurance trusts, and new business ventures.
- *Manipulating Value:* Your estate planning attorney will have numerous strategies to accomplish this goal.

References:

Becker, J.B. and M.G. Jacobson. 2002. Estate planning opportunities and strategies for private forest landowners. The Penn State University.

Estate Planning for Private Landowners. UMASS Extension.

Estate planning for forest landowners: what will become of your timberland? GTR. SRS-112. USFS.



Department Publication SF-OY0010