

# Considerations in Farm and Ranch Estate Planning

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*Amarillo Area Estate Planning Council  
May 2024*

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Texas A&M AgriLife Extension



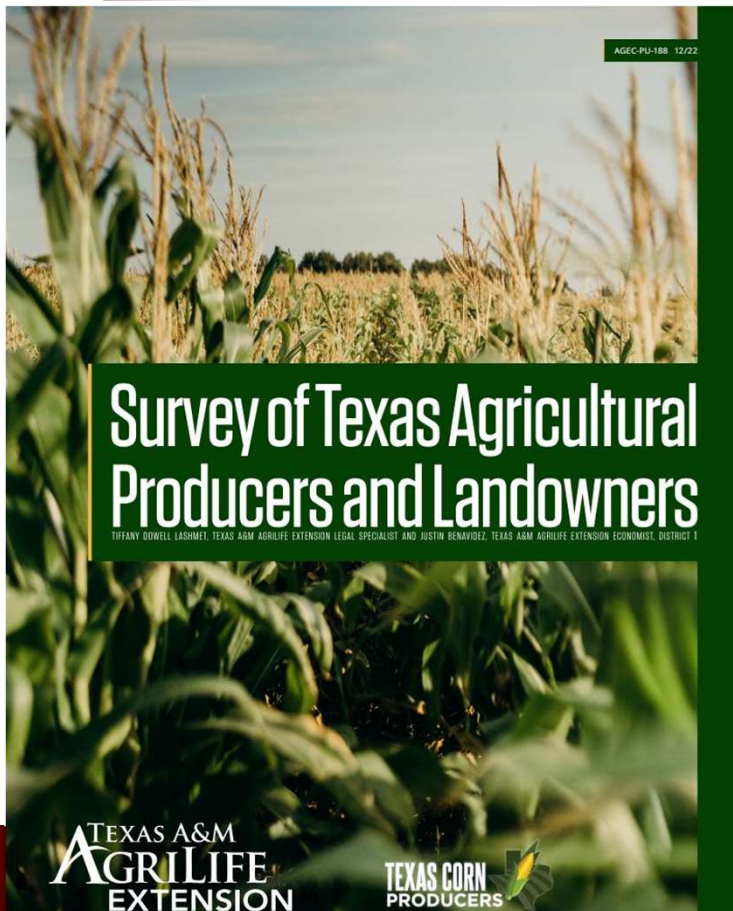
# Some Statistics

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- Average age of US farmers was 58.1 in 2022
- Increase of almost 2 years since 2012
- Only 9% of farmers are 35 or younger
- 96% of farms are family farms
- 70% of US farmland will change hands in next 20 yrs



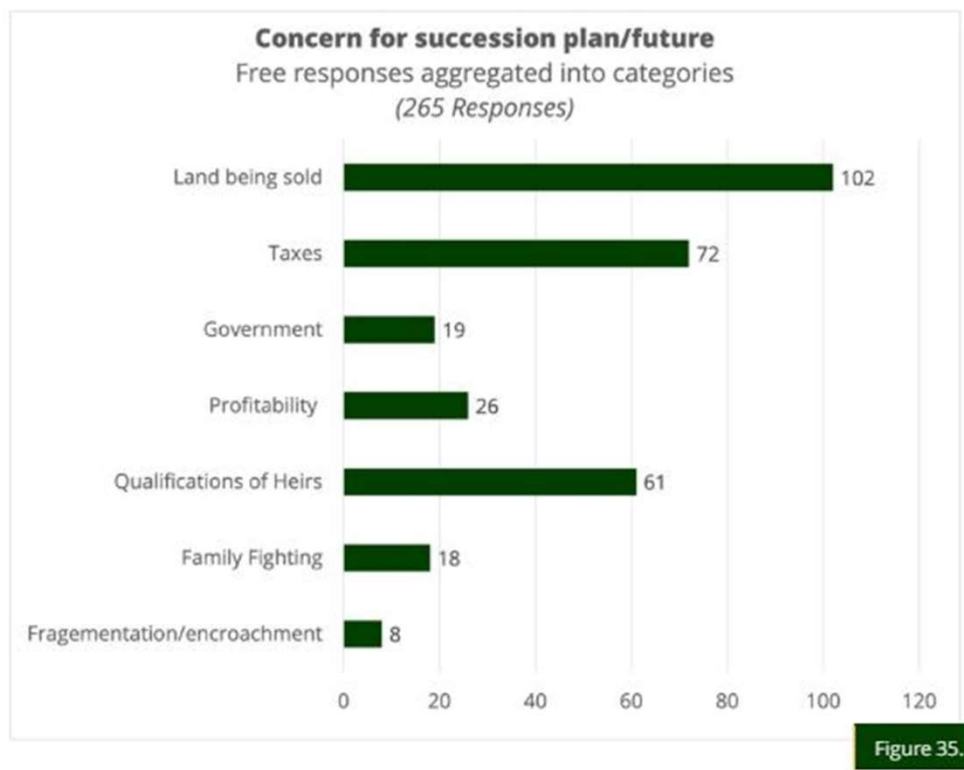
# Survey Results



- 548 survey respondents
- All Texas rural landowners and/or ag producers
- <https://agrillife.org/texasaglaw/files/2023/02/Survey-of-Texas-Agricultural-Producers-and-Land-Owners.pdf>

# Biggest concern about a succession plan/future of operation

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# Agricultural Specific Estate Planning Considerations

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- USDA payment limit concerns
- Off-farm/on-farm heir situation
- Older generation usually resistant to giving up control
- Lack of long-term care planning
- Capital gains taxes and generational land transfer
- Potentially unnecessary concern about the estate tax (for now)
- Ensure understanding of tools
- Building Flight Plan
- The legacy factor



# USDA Payment Limit Concerns

- For many USDA programs (Title I, NAP, LFP) limit is \$125,000/person actively engaged in farming/year.

Table 1 to Paragraph (f)

Payment or benefit	Limitation per person or legal entity (\$)
(1) Price Loss Coverage, Agriculture Risk Coverage payments (other than Peanuts)	125,000 per program year.
(2) Price Loss Coverage and Agriculture Risk Coverage payments for Peanuts	125,000 per program year.
(3) CRP annual rental payments	50,000 per program year.
(4) NAP payments	
(i) basic 50/55 NAP coverage	125,000 per crop year.
(ii) Buy-up NAP coverage	300,000 per crop year.
(5) LFP	125,000 per program year.
(6) CSP <sup>1</sup>	200,000.
(7) EQIP <sup>2</sup>	450,000.
(8) AMA program	50,000 per fiscal year.
(9) ECP	500,000 per disaster event.
(10) EFRP	500,000 per disaster event.

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# USDA Payment Limits Concern

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- USDA considers entities (LLC, corporation, LP) as one entity for payment limit purposes.
- Because of this, some producers may need to structure as a general partnership to qualify for full payments.
- Results is choosing sub-optimal structure with no limited liability, or having to create more complex, expensive structure than would otherwise be necessary.
- Recently published law review article on this topic: 28:3 Drake J. Agric. L. 327

# On Farm/Off Farm Heir Situation

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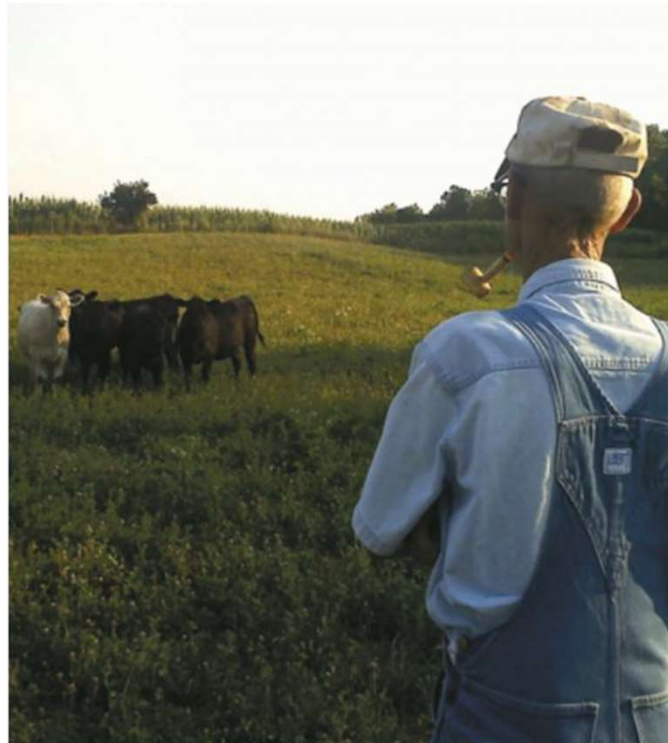
- Reality for many farm and ranch families.
- No right or wrong answer—but can make it impossible for operation to survive.
- Critical to understand goal in order to help determine right approach.
- S Lazy H by Corb Lund
- Podcast episode:  
<https://aglaw.libsyn.com/episode-69-shannon-ferrell-transition-planning-lessons-from-the-s-lazy-h>





# Resistant to Give Up Control

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# Lack of Long-Term Care Planning

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- “The biggest threat to continuing the farm today is likely Long-Term Care costs.”
- Info from Robert Moore at Ohio State:
  - Handbook: [https://farmoffice.osu.edu/sites/aglaw/files/site-library/LawBulletins/Long\\_term\\_care\\_and\\_the\\_Farm.pdf](https://farmoffice.osu.edu/sites/aglaw/files/site-library/LawBulletins/Long_term_care_and_the_Farm.pdf)
  - Calculator: <https://farmoffice.osu.edu/news/what-your-long-term-care-risk>
  - Podcast episode: <https://aglaw.libsyn.com/episode-169-robert-moore-long-term-care-considerations-for-farm-ranch-families>

# Lack of Long-Term Care Planning

Table 2. Average costs of LTC services

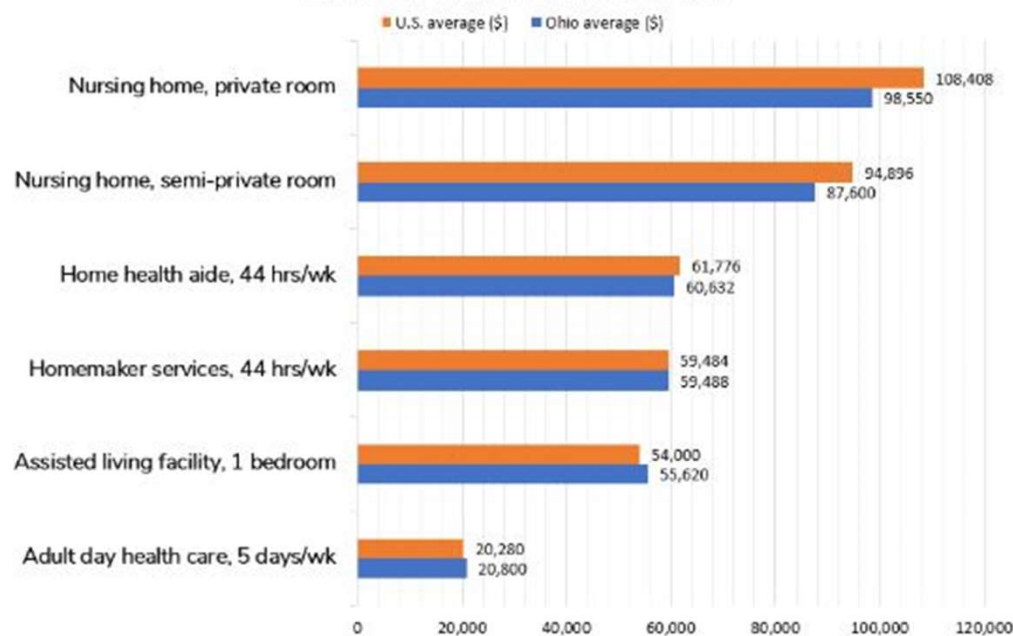
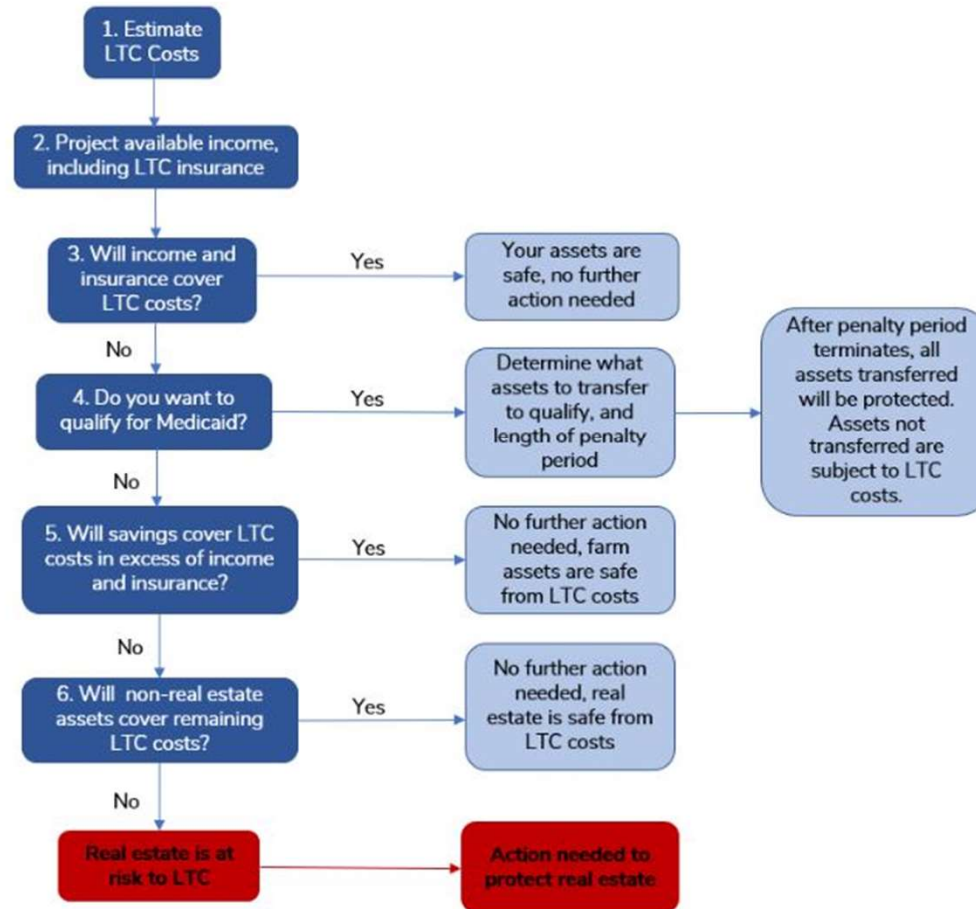


Table 3. Estimated LTC needs for a 65-year-old farmer

Chance of needing LTC	69%
Expected length of LTC	3 years
One year of unpaid home-based care	\$0
One year of paid home-based care	\$60,000
One year of facility-based care	\$90,000
Total cost of 3 years of LTC	\$150,000
Chance of more than 5 years of LTC needed	20%

Figure 1. Long-Term Care Strategy Analysis



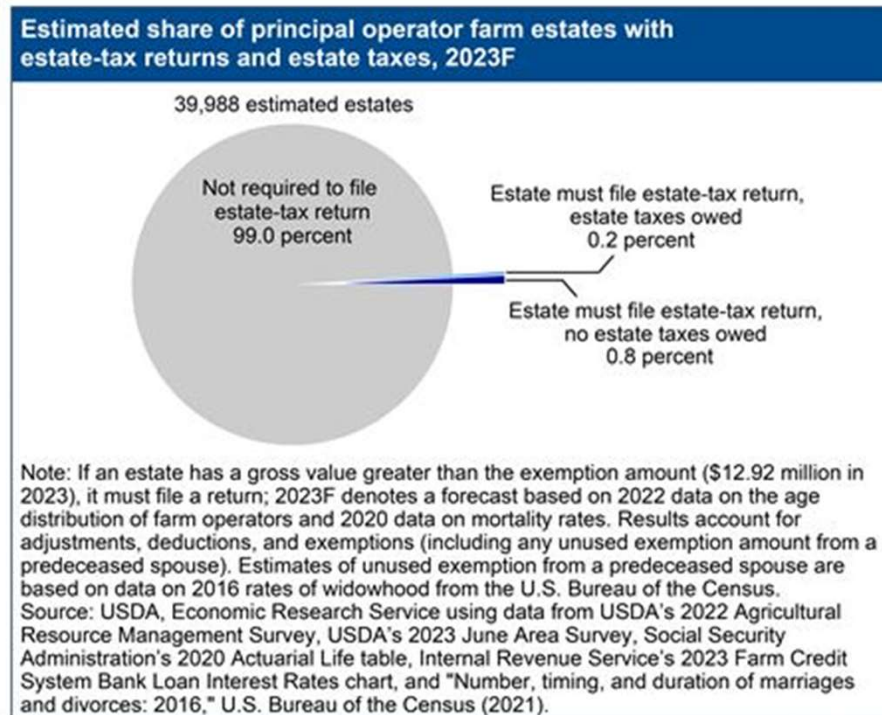
# Capital Gains Taxes

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- Capital gains tax threat major to many farm and ranch families who have had land in the family for generations.
- Many clients have no idea this is an issue.
- Not as well covered (politicized...) as estate taxes.
- Help clients think through *when* to transfer the property.

# Estate Taxes

- At current level (understanding this changes in 2026), vast majority of farm families not impacted by estate tax.





# Ensure Understanding of Tools

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- Shocking number of clients do not understand the tools they created in estate/succession plan.
- Before they leave your office, make sure they understand how the entities/plan will function!



# Flight Plan

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- Estate planning documents
- IRA/401(k)/Pension/Retirement Plan
- Life insurance policies
- Bank account info
- Safety deposit box info
- Debt info and pay schedules
- Health insurance policies
- Burial plot location and funeral instructions



# Flight Plan

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- Email and computer passwords
- Deeds, titles, registrations, leases, royalty documents, water permits, surveys
- Birth certificate, marriage licenses, social security cards, military discharge papers
- List of personal property, farm assets (structures, equipment, vehicles, land, livestock)
- Crop insurance policies and FSA contracts
- List of business relationships (attorney, accountant, banker, insurance agent, investment manager, livestock buyers or haulers)
- Combinations to gun safes, other safes/locks

# The Legacy Factor

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- Farms and ranches are not like other businesses.
- They are a lifestyle.
- The pressure that clients feel to keep alive the legacy that Dad and Grandpa and Great Grandpa created cannot be overstated.
- Keep this in mind when discussing and developing an estate plan.



# There Is Hope...

- Ag Law in the Field Podcast Episodes
- 988 - Suicide Crisis Lifeline



<http://extension.okstate.edu/farmstress>



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**January 29, 2021 Weekly Round Up**

*Posted on January 29, 2021 by tiffany.dewell*

Happy Friday! It's been a busy week here as I have been working with several of my colleagues in the Texas A&M Agricultural Economics Department on a series of educational videos on the legal and economic issues related to hemp production. If this is a topic of interest to you, be sure you subscribe to this blog as we will be releasing our videos and written materials within the next month! Here are some of the ag law stories in the news over the past couple of weeks...

[Read More →](#)

**January 15, 2021 Weekly Round Up**

*Posted on January 15, 2021 by tiffany.dewell*

Happy 2021, friends! We hope you all had a happy, healthy holiday and we are excited to be back for our first Weekly Round Up of the year. Here are some of the major agricultural law stories in the news over the past couple of weeks. \* Lawsuit filed seeking to overturn recent dicamba registration. On December 22, several environmental groups filed suit against the US Environmental Protection Agency challenging the recent approval of the use of over-the-top dicamba products through 2025. Specifically, the lawsuit claims that the...

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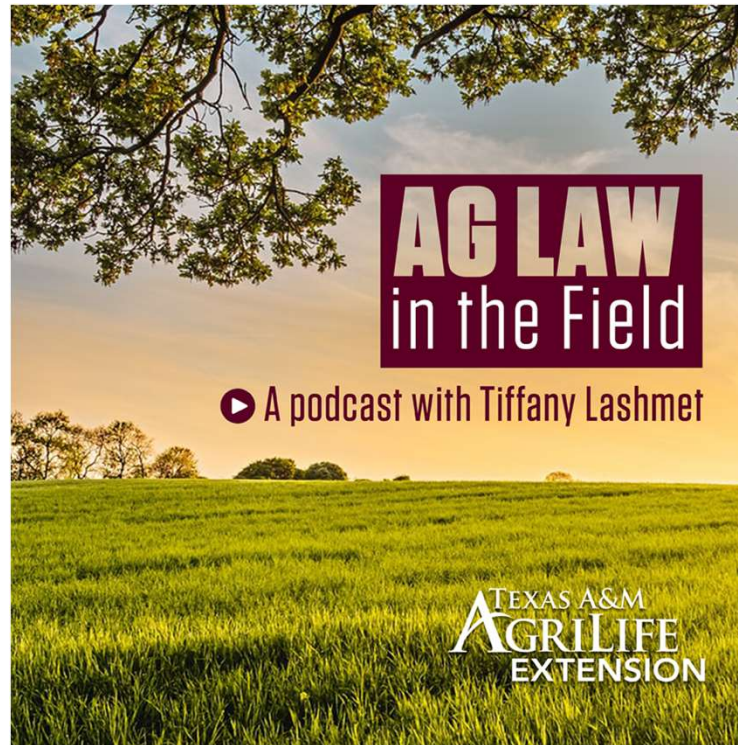
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# Thank you!

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