



Family Farm Corporations by Scott D. Abel

To treat farming as anything other than a business does a disservice to the farmer and the work that they do.

There are some obvious differences between farming and other kinds of businesses. There is no storefront with salespeople waiting to help you. There are no services or goods that you buy directly from the producer. Farmers themselves may have a greater attachment to the business, as the business may have been in the family for generations, with the same land being worked for decades.

Yet despite these differences, the farmer is still a self-employed business person who work for themselves to earn an income.

Whenever I have the opportunity to speak with farmers and their families, I try to discuss planning issues for their business, including succession planning, and family farm corporations. Corporations are not solely for big business, reserved for millionaire business people. A corporation is available to anyone. The question being is there an advantage for having a corporation.

A corporation is simply a separate legal entity, owned by shareholders, and run by directors

and officers. In large corporations, these may be different people. In small family corporations, often the shareholders, directors and officers are all the same person or people. A husband and a wife may be the only two shareholders, directors and officers.

The benefits to a corporation, whether it be for a family farm corporation or otherwise, are liability protection, tax advantages, and succession planning. These benefits are all available to the family farm corporation.

As the corporation is a distinct legal entity, it protects the shareholder from liability, as the corporation would be the one to be sued in the event of a legal dispute.

A corporation can receive beneficial tax treatment, as opposed to the individual. If the income earned from the farm is earned by the corporation, rather than the individual farmer, less money may have to be paid in income taxes, leaving more money available for debt servicing, or new purchases.

As the corporation is a distinct legal entity, it is capable of owning property. The family farm corporation could own the land and equipment. The farmer themselves would own the shares

of the corporation. If the farmer wished to sell or transfer the farm, for example, the land itself would not be sold, but rather the shares in the corporation would be sold.

If the farmer wanted to sell the farm to his child so that the child received the income, but did not want to give up the decision making power for the farm, this can be done in a corporation. The parent would own shares which allow for decision making, and the child would own shares with no decision making power, but the right to receive the income.

The family farm corporation is a valuable planning tool available to all farmers. Whether it is appropriate for a particular farmer is something that needs to be discussed with a lawyer, accountant and financial planner. However, the time invested in discussing a family farm corporation now may pay itself back for greater rewards in the future.