FARM ESTATE PLANNING IN ALABAMA

Problems
Tools and
Case Studies

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FARM ESTATE PLANNING in ALABAMA*

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ESTATE PLANNING is the continuous process of organizing the affairs of the estate owner to fulfill his objectives concerning conservation and disposition of his estate. The major item in the process is the eventual transfer of property from one generation to the next. Inadequate estate planning can result in excessive estate taxes, uncertainty pertaining to future owner-operatorship of the farm business, unnecessary administrative and transfer costs, and liquidation losses.

Federal estate tax laws, like income tax laws, have certain legal provisions that allow a minimum or even an avoidance of taxes. This does not imply tax evasion, which is punishable by law. Alabama farmers can use estate planning tools to avoid heavy taxes, as well as reduce other costs.

Even though estate planning has become an important aspect of management of a farm, many farmers are dying intestate. Intestacy or dying without a will may leave the family with financial problems which may force the sale of equipment, livestock, or land, thus affecting the productivity and efficiency of the farm business. Dying intestate may also cause family disagreements and create other problems.

Some Alabama farmers are not aware of the increased value of their estates. The major item contributing to this increase has been land. The average value of Alabama farms has increased 83 percent since 1964, a trend prevalent over the past 20 to 30

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years. With inflated land values farmers' estates may be taxed heavier than owners anticipate. Since most farm estates are composed mainly of land, equipment, and other non-liquid assets, problems can result in providing cash needs for debts, taxes, administrative and settlement costs. Adequate estate planning, while the farmer is still alive, may prevent liquidation or heavy borrowing to pay transfer costs and taxes at his death. Estate planning may also prevent setbacks in the financial structure and efficiency of the farm.

One of the most important considerations in designing the estate plan is welfare of the family after death. The estate plan should provide for the family's future needs and preserve a maximum amount of property for their welfare. Surviving family members should know the location of all property, whom to seek for advice and estate settlement procedures in order to direct the estate plan.

OBJECTIVES AND PROCEDURE

Objectives

Alabama farmers have several estate planning tools available to them for non-sale transfer of their estates. This study identifies and analyzes these tools. Also their uses are illustrated by case studies of Alabama farmers.

Two specific objectives of this study were as follows: (1) to summarize the estate planning tools available to Alabama farmers, and delineate some of the problems encountered by Alabama farmers in their estate plans and (2) to develop case studies of a limited number of Alabama farm estates: (a) as illustrations of alternative solutions to estate planning problems and implementation of estate planning tools and (b) to describe some of the economic consequences.

An underlying hypothesis of this study was that most Alabama farmers could increase the size of their transferred estates and minimize estate transfer problems and costs by using estate planning tools, such as wills, gifts, and trusts.

Procedure

This study shows the application, interrelationship, and the economic effects of estate planning tools. The case study technique was selected as the best method for fulfilling and illustrating all of these criteria. This technique provides flexibility in analyzing individual cases.

There were only 10 case studies used so no statistical inferences were made from the data. However, since these were actual Alabama cases they are of greater interest and significance than hypothetical settlements. The problems discussed are those that most estate owners will face.

The cases were selected from a sample of Alabama farmers' estates. Several limiting factors were considered in choosing the estates: (1) the family of the decedent had agreed to provide the necessary family, personal and financial information required for analysis of the case, (2) a minimum gross estate of $60,000 was required, (3) the estate must have been settled within the past 10 years, and (4) stratification as to type of farm, size, and estate planning objectives.

County Extension Chairmen were asked to submit name, address, type of farm, and approximate gross value of estates that fit the above criteria. A questionnaire was used to collect data from the executor (executrix) of the estate. Data collected included: family information, farm business information, the estate plan, financial data, and estimated effects of the transfer. The data were analyzed to present a summary of the case and problems faced by each estate owner. The cases are presented first as they were actually settled, second the value of the estate was updated to present values and the effects of the estate plans shown and third an alternative plan was used to illustrate how the estate owner could have reduced his taxes and still fulfilled his objectives.

Estate Planning in Alabama

Many Alabama farmers die intestate, and one of the main reasons is a lack of knowledge of the estate planning process. This section will describe the taxes affecting Alabama farm estates and the tools that farmers have available to them for avoiding excessive erosion of the value of their estates. This information is not a substitute for obtaining professional assistance in preparing an estate plan, but is intended to familiarize Alabama farmers with estate planning to enable them to determine its need and value.

Federal Estate Tax

The Federal Estate Tax is based upon the value of all property, real and personal, owned by a decedent at his death. This total value is termed "the gross estate." The gross estate is comprised

of: (a) all real and personal property in which the decedent owned a fractional or entire interest, (i.e., real estate, machinery and livestock, stocks and bonds, interest in business, bank accounts, etc.), (b) life insurance proceeds payable to the estate, or proceeds payable to others where the decedent retained some rights to the policy, (c) the value of property owned jointly by the decedent, less any part contributed by others, (d) any property transferred by the decedent during his life in which he retained some control, or a life estate, (e) property given away within 3 years of death, unless proven not to be in contemplation of death, (f) any property over which the decedent holds "a general power of appointment." The only exclusion is real property outside the United States. In determining the value of the gross estate the property is appraised at its fair market value at the time of the decedent's death, or at the election of the executor 6 months from date of death.

The adjusted "gross estate" is determined by taking the value of the gross estate and subtracting the authorized deductions and exemptions. The allowable deductions include: debts, claims against the estate, unpaid taxes, funeral expenses, estate administration costs, and losses incurred during administration.

The "taxable estate" is derived from the adjusted gross estate by subtracting the marital deduction, charitable deduction (where applicable), and the specific exemption. The "marital deduction" is allowed for property passing to the decedent's spouse, but not more than 50 percent of the adjusted gross estate may be deducted.

An exemption of $60,000 is allowed for each estate, thus estates worth less than $60,000 are not subject to estate tax. Estate planners often use this $60,000 exemption in conjunction with the marital deduction to exempt estates of about $120,000 from tax altogether – the first $60,000 is specifically sheltered by the exemption, and at least one-half ($60,000 if the adjusted gross estate is $120,000) of the estate is willed to the surviving spouse, giving rise to a $60,000 marital deduction, for total deductions ($60,000 + $60,000 = $120,000) equal to the value of the estate. More sophisticated estate plans take into account the taxation of the property in the estate of the surviving estate. Thus, for example, if a farmer's estate was substantial, but he was very concerned to provide for his wife upon his death, his will might provide that she was to receive one-half the property he owned

TABLE 1. SCHEDULE OF FEDERAL ESTATE TAX RATES
Taxable Estate (amount after all exemptions and deductions)

From	To	Tax =	+ Percent	Of excess over
$ 0	$ 5,000	$ ------	3	$ ------
5,000	10,000	150	7	5,000
10,000	20,000	500	11	10,000
20,000	30,000	1,600	14	20,000
30,000	40,000	3,000	18	30,000
40,000	50,000	4,800	22	40,000
50,000	60,000	7,000	25	50,000
60,000	100,000	9,500	28	60,000
100,000	250,000	20,700	30	100,000
250,000	500,000	65,700	32	250,000
500,000	750,000	145,700	35	500,000
750,000	1,000,000	233,200	37	750,000
1,000,000	1,250,000	325,700	39	1,000,000
1,250,000	1,500,000	423,200	42	1,250,000
1,500,000	2,000,000	528,200	45	1,500,000

Source: Commerce Clearing House Inc., "Income, Estate and Gift Tax Provisions," *Internal Revenue Code,* (Chicago, Illinois, 1972). pp. 4453-4454.

at death, and the remainder might be put in a trust with a life estate to her and the remainder to their children. In this plan his estate would be entitled to the maximum marital deduction (one-half the adjusted gross estate), but only one-half the property would be taxed twice, once in his estate and again in hers.

Charitable deductions are allowed for property passing to educational, religious or similar institutions. Credits against the estate tax are allowed for taxes paid on prior transfers of property, (Appendix C) state inheritance taxes, federal gift taxes, and foreign death taxes. Tax rates range from 3 percent on a taxable estate of less than $5,000 up to 77 percent on taxable estates of $10 million or more. The federal estate tax rates are shown in Table 1. The federal estate tax return (Form 706) is due within 9 months of the decedent's death.

Alabama Estate Tax

The Alabama estate tax law states that if the decedent is a resident of Alabama his estate is subject to the state estate tax. The Alabama estate tax is imposed upon the right of the decedent to transfer real property located in the state of Alabama and personal property wherever located. (1) The amount of Alabama tax due is the maximum allowable federal estate tax credit for state death taxes. The schedule used to compute Alabama estate tax liabilities is shown in Table 2. Since the Alabama Estate tax is equal to the allowable federal credit the combined federal

TABLE 2. MAXIMUM FEDERAL CREDIT FOR STATE DEATH TAXES
Taxable Estate (amount after all exemptions and deductions)

From	To	Tax =	+ Percent	Of excess over
$ 0	$ 40,000	$ 0	0	$ 0
40,000	90,000	0	.8	40,000
90,000	140,000	400	1.6	90,000
140,000	240,000	1,200	2.4	140,000
240,000	440,000	3,600	3.2	240,000
440,000	640,000	10,000	4.0	440,000
640,000	840,000	18,000	4.8	640,000
840,000	1,040,000	27,600	5.6	840,000
1,040,000	1,540,000	38,800	6.4	1,040,000
1,540,000	2,040,000	70,800	7.2	1,540,000

Source: Commerce Clearing House Inc. *Internal Revenue Code,* p. 4455.

and state estate taxes will never exceed the gross federal estate tax. The state tax is due and payable to the State Department of Revenue 15 months after the estate owner's death.

Federal Gift Tax

An estate owner can also transfer property during his life, which is called a lifetime gift. Any non-sale transfer of property by a person to another, who accepts the property is a gift. The difference between an exchange price and the fair market price is also considered a gift and is subject to gift taxes. The tax is imposed upon the donor, but if the donor does not pay the tax the donee (recipient), may be called upon to pay it on the property received.

There are several exclusions, exemptions, and deductions that can be used to reduce the value of property subject to gift tax. Each donor has an annual exclusion of $3,000 per donee per year that he can deduct from the amount of taxable gifts. In addition to this exclusion, each donor is allowed a "lifetime specific gift tax exemption" of $30,000. So if an estate owner desired to give his son $50,000 in 1 year he could deduct his annual exclusion of $3,000 and use his lifetime exemption of $30,000 leaving his taxable gift at $17,000.

Split gifts can be given with consent of both the wife and the husband, as a gift "split" into equal parts given by each. This doubles the exemptions and exclusions to $60,000 and $6,000 for those gifts given jointly. This means that a husband and wife giving split gifts can transfer up to $60,000 plus $6,000 for each donee tax free in 1 year. Of course such a gift would use up

TABLE 3. FEDERAL GIFT TAX SCHEDULE

Net Gifts (amount after all exemptions and deductions)				
From	To	Tax = +	Percent	Of excess over
$ 0	$ 5,000	$	2.25	0
5,000	10,000	112.50	5.25	5,000
10,000	20,000	375.00	8.25	10,000
20,000	30,000	1,200.00	10.50	20,000
30,000	40,000	2,250.00	13.50	30,000
40,000	50,000	3,600.00	16.50	40,000
50,000	60,000	5,250.00	18.75	50,000
60,000	100,000	7,125.00	21.00	60,000
100,000	250,000	15,525.00	22.50	100,000
250,000	500,000	49,275.00	24.00	250,000

Source: Commerce Clearing House Inc., *Internal Revenue Code,* Sec. 2502, p. 4496.

the lifetime exemption of both husband and wife, so next year they could jointly give only $6,000 tax free.

Gift tax marital deductions are allowed if a gift is made by one spouse to the other. This allows the spouse to transfer one-half of the gift without regard to the annual exclusion or specific exemption. Thus, a donor can give his spouse up to $6,000 per year without incurring a gift tax or by using his specific exemption of $60,000 in 1 year. These deductions apply only if the recipient of the gift was married to the donor at the time of the gift. The gift tax rates are three-fourths of the comparable estate tax rates, Table 3.

Analysis of the Tools of Transfer

There are several alternative methods of transferring property prior to or upon death that can be used to reduce estate taxes, transfer costs and result in a smoother and more efficient transfer. Three major estate planning tools that will be described and other less used methods will be presented. The optimum plan for an estate may require one or a combination of the estate planning tools. The case studies illustrate that professional assistance in applying these tools can prevent unexpected taxes or problems for the family.

The Will

A will is a legal declaration of how a person, the testator, intends his real and personal property to be distributed at his death. It is the most common tool used by Alabama farmers in directing

disposition of their property upon death. A will allows a person to determine before his death, who shall receive his property and the interest they will receive. A will should be in writing, signed by the testator or someone in his presence and by his direction and attested by at least two witnesses. If a citizen of Alabama fails to make a will, he is referred to as dying "intestate," and his property will be distributed according to the Alabama "Laws of Descent and Distribution." The disposition set forth in these laws is very rigid. In most cases, this is not the optimal arrangement for the family because of erosion to the estate and this process takes longer to settle. Alabama Laws of Descent and Distribution are summarized in Appendix A and B.

To make sure the legal requirements of a will are met the estate owner should have a lawyer assist in its drafting. The estate owner should provide the lawyer with a complete list of property and liabilities, a list of persons to be provided for, and what property each one should receive.

The executor or executrix of the estate should be designated in the will. This person is responsible for carrying out the directions of the will after the testator's death, Appendix D. The executor is usually a member of the family, but can be almost anyone, a friend, a lawyer or trust department of a bank. The executor (executrix) should be carefully selected, since he will manage the property during the estate settlement period, Appendix E.

Where minor children are involved a nomination or appointment of a guardian is an important clause to include in the will. The failure to include this can result in added court and other legal costs. If a person is nominated in the will, they receive first preference in the appointment by the court.

In Alabama there is a major restriction on the distribution of the property of the estate owner. The wife cannot be disinherited from her "dower" right. A dower interest consists of a life estate in one-third of all the real property owned by the widow's husband during their marriage – including property owned by others for the husband's benefit. The dower right increases to one-half if the husband had no lineal descendants. The wife can also claim a child's share, but never less than one-fifth of the personal property left in the husband's estate, Appendix B.

The will needs to be periodically reviewed and up-dated as the family situation changes. There are certain ways a will can

be changed and each should be supervised by a lawyer. An amendment to a will is made by adding a "codicil." This instrument is executed and witnessed in the same way as a will.

The major advantage of the will is to allow the farm owner to designate the recipients of his property at his death. It also provides an intermediate tool to establish a testamentary trust. The will can be used to bequeath a specific piece of property to an heir. It can reduce the administration costs and estate taxes. The will should be kept up to date; if not it may result in inefficient transferral of the property.

The importance of a will cannot be overemphasized. It should be placed in a very safe place, and its presence should be known by the executor of the estate.

Transfer by Gift

Lifetime gifts can be used to transfer property during the life of the owner. The federal law allows an individual to give a total of $30,000 tax free during the donor's lifetime and $3,000 to each donee every year if he desires. Real property may be given by deed, and personal property can be given by just passing the property with all its rights. There are several advantages of using gifts in the estate plan. A gift can be made to anyone at any age. A gift of property may enable the recipient to use the property when he needs it. Gifts will remove the property from the donor's estate, which will reduce the taxable estate. Early giving of land or other farm property may encourage the children to remain on the farm. Finally, the gift tax rates are only three-fourths of the federal estate tax rate.

The lifetime gift also has its disadvantages. Lifetime giving may deplete the only source of income available to the parents, and thus, result in hardships or dependency. Unless all gifts are equitable, they may create family problems. Gifts may be subject to estate taxes if made within 3 years prior to death.

The rate of tax on lifetime gifts is cumulative, that is, the rate is determined by the total amount of gifts made during the lifetime of the donor, and not just considering the gifts made in a particular year. Therefore, lifetime giving is advantageous only as long as the marginal gift tax rate is equal to or less than the marginal estate tax rate if the transfer were postponed until death.

Lifetime giving adds flexibility to the estate plan, and provides maximum tax savings when used over long periods of time. By

combining lifetime gifts with a will, an estate owner can take advantage of the good aspects of each.

Trust

The trust is a legal arrangement made by the estate owner during his life or by terms of a will whereby a person called the trustee controls and manages property for the benefit of other persons called beneficiaries. There are two types of trusts, the *inter vivos* trust which is created during the grantor's life, and the testamentary trust which is created by the grantor's will upon his death. The *inter vivos* trust can be further divided into (a) revocable, which means the grantor retains the right to terminate the trust and (b) irrevocable, meaning the transfer is final. When a testamentary trust is established, the provisions provided by the will take effect upon the death of the owner.

The trust provides several management advantages over other types of transfer tools. It can be used to provide good management of the farm or other assets until its termination. It can be used to manage property for minor children until they reach an age so they can manage it themselves; it can be used to relieve the management burden from the widow during her lifetime; it may serve to provide for an incapacitated child or a "spendthrift" trust can protect a family member from his own financial indiscretion. The management potential of the trust is very flexible and can be used very effectively in estate planning.

The selection of the trustee should be taken very seriously, and the functions to be carried out should determine the choice. There is a difference between a trustee and a guardian. The trustee holds title to the property and generally enjoys flexibility in management. The guardian is controlled by rigid limits established by law in handling property for the benefit of a ward.

In the case of farm property being transferred, the *inter vivos* trust provides a means by which the farm operations are not interrupted by the transfer process, because it passes outside probate. Many banks and trust departments are hiring full-time farm managers to handle these farm estates.

The *inter vivos* trust, if irrevocable, is subject to federal gift taxes. The grantor still receives the same exemptions, deductions, and exclusions as in lifetime giving. In some cases the optimal plan would include a long term plan with the estate owner giving into a irrevocable trust – taking advantage of the tax

breaks. The testamentary and revocable *inter vivos* trusts are included in the gross estate and are subject to federal and Alabama estate taxes.

Other Methods

Life insurance adds instant liquidity to the estate. A life insurance program can be used in estate planning to provide financial security for the family, to meet debts, expenses, and taxes, or it can be used to equalize the value of property passing to estate heirs.

Recently life insurance has been used in partnerships, with each partner insuring the life of the other. This provides liquid assets for financial support of the business until the inefficiency resulting from the loss of the partner is compensated. Partnership insurance can also be used to pay the widow of the partner for his share of the business, without liquidating business assets.

There are three basic types of life insurance: term, whole life, and endowment. Each has its own advantages and disadvantages, and the estate owner will have to appraise his own needs to determine the kind that best meets his family financial situation.

If the decedent retains any incidents of ownership in the life insurance policy, the proceeds will be included in his gross estate. As long as the estate owner has no control over the policy, these proceeds are not subject to federal estate taxes. Family members may want to insure the estate owner to provide liquidity at his death without adding to the estate.

Co-ownership of property can enhance or hinder the transfer of that property. The usual ways whereby co-ownership exists in Alabama are tenancy-in-common and joint tenancy. Tenancy-in-common exists when two or more persons own an undivided interest in the property. Either can sell or will his share, and if a co-owner dies his share becomes a part of his estate and passes to his heirs.

Joint tenancy can create problems if the estate owner is not sure of its full implications. Joint tenancy exists when two or more persons own property with right of survivorship. In Alabama if survivorship is not stipulated in the deed, then a tenancy-in-common exists. Joint tenancy states that when a co-owner dies his undivided interest is distributed equally among the other joint tenants. This form of ownership takes precedence over

distribution by will. The jointly owned property passes outside probate, thus reducing administration and probate costs, but the owner loses the right of testamentary distribution. This lack of flexibility at death can result in higher federal and Alabama estate taxes.

A type of business organization cannot be used to transfer property, but it does affect the ease of transfer. Corporate ownership provides several advantages over the proprietorship and partnership, and should be considered if there are more than one family member or outside members in ownership of the farm. One advantage of incorporating the farm is the limited liability. Another advantage of the corporate ownership is easy transferability. Also, the corporation can be created to last indefinite, thus operation can continue, while shares are being transferred during life or upon the death of the share owner.

The corporate farm provides a means to continue operation of the farm (i.e., by allowing one family member to manage the farm and the others receive shares). The operating member would receive a salary, and the profits shared according to their interest. This retains unity of the farm, but still treating each family member equitably.

There are several income tax disadvantages to operation of a farm in corporate form. Among these are taxation of the income of the farm twice (once when realized by the corporation and again when distributed as dividends), possible heavy taxation when the corporation is liquidated, burdensome record-keeping and return requirements, loss of some business deduction by the individuals running the farm since these may be expenses of the corporation, and inability to deduct losses from farm operations from non-farm income. On the whole, it is a mistake to incorporate a farm without seeking well-qualified counsel from an attorney or accountant as to the potential tax consequences. Some of the benefits of incorporation can be achieved by operation of the farm by a limited partnership, which also will avoid some of the disadvantages noted. It is also possible to elect to be treated as a "Subchapter S Corporation" which means the enterprise's income will be taxed directly to its shareholders, and thus only once; this election can be disadvantageous, however, if large amounts of farm property are sold in 1 year.

CASE STUDY ANALYSIS

Ten farm case estates were analyzed in detail with respect to the estate plan provided by the owner. All the case estates were Alabama farms that had been settled within 10 years, the oldest was settled in 1965 and the most recent was settled under 1972 values.

The analysis will present the family situation, farm situation, the objectives of the decedent, his estate plan, and the final effect on the family. This analysis was made to illustrate how the estate planning tools are being used by Alabama farmers.

Case A

Mr. A's farm was a combination of dairy and row crops. The crops were used for feed and for cash crops. The farm consisted of 1,200 acres of land – 650 acres of row crops, 250 acres of pasture, and 300 acres of woodland.

The dairy herd consisted of 100 mature cows. All of the facilities used in the dairy operation were up-to-date. The major crops produced were corn (silage), cotton, soybeans, wheat and oats (double cropped) and grain sorghum. Farming was Mr. A's only business interest.

Mr. A was between 75 and 80 years old[1] when he died. At this time Mrs. A was 70 to 75 years old; they had two sons who were in the age brackets of 35 to 40 and 45 to 50; and one daughter who was 30 to 35. Mr. A had graduated from high school and had completed 2 years of college. He had been farming for 50 years.

Mr. A incorporated his farm in the early 1960's and included everything in the farm operation under this agreement except the land. He retained private ownership and sole control of all his land at this time. The incorporation step in Mr. A's plan was very important in simplifying the transfers of his property before and after his death.

Incorporating the farm business made transfer of ownership easier because it divided the farm assets (excluding land) into smaller equal increments or stock certificates. Thus changes in ownership were made by transferring ownership of stock in any amount desired. This was advantageous to Mr. A in making his lifetime gifts. The lifetime gifts were started the year following

[1] The ages of the family members will be given in ranges to prevent their being identified.

the incorporation and were continued on an annual basis until his death. These gifts consisted of stocks and real estate. Value of the stock when transferred depended on the current market value of the farm assets (excluding land). The real estate, on the other hand, had to be surveyed and appraised and the property given by deed to each family member.

These annual gifts over a period of 9 years amounted to $252,000 of Mr. A's estate being passed to his heirs with only $1,100 paid in gift taxes. These taxes were spread over a 9-year period, thus very little being paid in any particular year. By transferring this property prior to his death, Mr. A saved his estate approximately $30,000 in estate taxes which would have had to be paid by the estate at his death. This example illustrates the potential savings in the use of lifetime gifts in estate planning.

The liquid assets, cash or capital that could be easily converted into cash, consisted of $3,500 of insurance, $50,000 in bank accounts and stock in the corporation. This gave Mr. A's estate over $50,000 of liquid assets. Since the size of his taxable estate was less than $50,000 he had excellent liquidity.

Mr. A's will gave his share of the farm business to his wife. His objectives considering the complete plan were to: (1) facilitate transfer of his estate to his wife and children with a minimum of time and problems, (2) minimize the Federal estate and state death taxes, and hold the estate together after his death, and (3) provide for all the children in an equitable manner.

Mr. A's will also had a simultaneous death clause, which specified that in case of the simultaneous death of Mr. and Mrs. A, Mr. A would be considered to have died first. Mr. A. provided for his wife by keeping one-half of the estate for her, and made use of the marital deduction to conserve her part. Continuing on with Mr. A's plan, Mrs. A willed her estate to the children in equal shares.

Mr. A consulted a lawyer and an accountant in preparing his estate plan and his will. The results of the transfer reflected the accuracy of the professional advice received and also that the estate plan and will fulfilled his objectives.

Mr. A's estate was comprised of the following assets:

	Gross estate	*Probate estate*
Real estate (including home)	$148,000	$148,000
Stocks and bonds (farm stocks)	30,000	30,000
Cash, mortgage and notes	20,000	------
Insurance on Mr. A's life	3,500	------
Other jointly owned property	5,000	------
Other personal property	3,000	3,000
Total	$209,500	$181,000

These were classified into the gross estate and probate estate. Mr. A owned most of the property in sole ownership, so this property had to be probated. The cash in the joint checking account, insurance, and the personal property did not have to be probated because they were owned jointly.

Mr. A had liabilities which had to be considered in determining the taxable estate. These were debts of the farm business; so they were included, according to his share of the ownership. They were as follows:

Notes payable	$5,250
Accounts payable	1,250
Equipment notes payable	1,000
Total	$7,500

The assets and liabilities were combined in the settlement to determine the adjusted gross estate. Mr. A's estate settlement was calculated as follows:

Case A Estate Settlement

Gross estate		$209,500
Less: Indebtedness	$7,500	
Administrative cost	1,300	8,800
Adjusted gross estate		$200,700
Less: Marital deduction (maximum of ½ of the adjusted gross estate)	$100,350	
Specified exemption	$ 60,000	160,350
Taxable estate		$ 40,350
Gross estate tax		4,877

This plan provided for reduction of taxes, surety in possession of the farm and elimination of many transfer problems. He did not feel that he had to maintain a controlling interest in the farm corporation, because there was a good family relationship, and he was the president of the farm corporation.

What would the taxes have been had he not used the tools of estate planning in a well prepared plan? Assuming no gifts were given prior to death, there would have been $252,000 added to Mr. A's estate. One-half of this could be transferred to Mrs. A

without taxes through the marital deduction. The other one-half or $126,000, would have been added to the taxable estate increasing the taxable estate to $166,000. The tax on this would have been in excess of $40,000. A large portion of this amount was saved because of good estate planning, which had an additional cost of $700 for the legal counsel and administration cost. There was also $1,100 paid in gift taxes.

Tax Summary

	Taxes paid
Mr. A's Estate Plan (without gifts)	$40,200
Mr. A's Estate Plan (using gifts)	4,877
	$35,323
Added cost of gifts	1,800
Net savings	$33,523

Case B

Mr. B owned 515 acres of land at his death. His major enterprises were beef cattle and cotton. The land was divided into 210 acres of row crop land, 200 acres of pasture, and 103 acres in woodland, with the remaining 2 acres used for living area. At the time of his death, Mr. B had 100 head of beef cattle, and was using the row crop land in the production of cotton and feed crops. Earlier in his life, Mr. B had operated a cotton gin, which had been transferred to the son.

Mr. B died at the age of 65 to 70, and his wife was in the same age range. He had only one son who was 45 to 50 years old. In this case the grandchildren were potential heirs to the estate. The granddaughter was between 25 and 30, and the grandson, a minor, was 15 to 20 years old. Mr. B had completed 8 years of formal education and had farmed for approximately 50 years.

Mr. B started distributing his estate by gifts in 1950, and had reduced his taxable estate by $47,000 at the time of his death. Mr. and Mrs. B used lifetime gifts to transfer part of the farm business to his son. The first gift was 230 acres of land, which was valued at $23,000 at that time. This gift was divided into $6,000 as an annual gift, and the other $17,000 was deducted from their "lifetime specific gift tax exemption." Again in 1966 Mr. and Mrs. B gave a split gift of the cotton gin to the son. This gift was valued at $13,000. That same year they gave their granddaughter a house (which Mr. and Mrs. B did not live in) and 5 acres of land which were valued at $11,000. These gifts totaled to $24,000 for that year. Since the annual exclusion can be de-

ducted for both Mr. and Mrs. B, $6,000 was deducted as an annual exclusion. The other $18,000 was transferred under the remaining lifetime exemption.

Mr. B established a trust for his grandson in 1966. Included in this trust was land referred to as "The Old Homestead." This 160 acres of land excluded the home in which Mr. and Mrs. B lived. Mr. B's son was appointed trustee. This trust, however, was revocable and Mr. B still retained some control, so that this property was included in Mr. B's estate. If Mr. B had transferred full control with the property, it would have been treated as a gift and would have passed outside the estate. In addition to the trust, Mr. B also included a specific bequest clause in his will transferring full control on to his grandson's trust, making the transfer complete. This was needed to guarantee that this property would stay in the family and not be sold, which was one of Mr. B's specific objectives.

As mentioned, Mr. B also drew up a will to complete his estate plan. Mr. B's objectives as determined from his will were to: (1) provide security for his wife during her lifetime, (2) transfer the estate in a way that would reduce problems to the family, and limit the estate taxes, and (3) retain the farm land within the family.

By using a will Mr. B gave one-third of his estate to his wife, and one-third to each of two grandchildren. This was bypassing the middle generation, by request of Mr. B's son. Through this method two-thirds of the estate is taxed only once while transferring from grandparents to grandchildren whereas, in most cases it would be taxed twice — at present and again at the son's death.

The grandson's part of the real estate was specified to include the original 160 acres of land referred to earlier, excluding the living area. Another special clause in the will was a request that no part of the farm be sold or mortgaged. (This clause would not be binding on the heirs).

Mrs. B did not have a will at the time her husband died. The next year, she prepared a will leaving the remainder of the farm at her death to the grandchildren in equal parts.

Mr. B did not consult professional counsel prior to making his gifts as indicated by their erratic nature; however, they did reduce Mr. B's taxable estate by substantial amount. Legal assistance was obtained by Mr. B in preparing the will but there was

one major omission in its preparation. The will included a specific bequest of the 160 acres of land to a minor, but there was no guardian nominated. Since the grandson was a minor and could not manage his own real estate, correcting this mistake caused additional costs for legal assistance, court costs, and family problems, which could have been avoided. This indicates the importance of the selection of a lawyer who specializes in Estate Planning.

The liquid assets or cash available for taxes, debts, and transfer cost amounted to $7,100 in the checking account, $12,200 in other bank deposits and $5,000 in insurance. This gave the executor excellent liquidity to handle these financial matters.

Mr. B had the following assets included in his estate:

	Gross estate	*Probate estate*
Real estate (including home)	$ 96,500	$ 96,500
Real estate (160 acres in trust)	32,000	------
Mortgages, notes and cash	200	------
Insurance on the decedent's life	5,000	------
Jointly owned property	40,000	------
Other personal property	13,700	13,700
Total	$187,400	$129,200

The 160 acres held in trust for the grandson was not included in probate estate even though in the gross estate for tax purposes. Most of Mr. B's real estate was owned in sole ownership. Included in the jointly owned property was one small tract of land, livestock, machinery, and savings deposits. Mr. B did not have any debts other than the current bills for utilities and small debts, which amounted to $100. Mr. B's estate settlement is presented below:

Case B Estate Settlement

Gross estate		$187,400
Less: Indebtedness	$ 100	
Administrative cost	3,500	3,600
Adjusted gross estate		$183,800
Less: Martial deduction	$61,266	
Specific exemption	60,000	$121,266
Taxable estate		$ 62,534
Gross estate tax		$ 10,210

Mr. B's estate plan lacked uniformity or any specific outline. The gifts were given at very irregular times and amounts. If the gifts had been spread over a number of years, taking full advantage of the annual exclusion, then more of the estate could have been transferred in this manner, tax free. Also he did not

take full advantage of the marital deduction, giving only one-third of his estate to his wife. However, Mr. B's sole objective was not to minimize taxes, but to transfer his property for his son's use, which he did, and still saved over $8,000 in taxes to his estate.

Tax Summary

	Taxes paid
Mr. B's estate plan (without gifts)	$18,982
Mr. B's estate plan (with gifts)	10,210
	$ 8,772
Added cost of gifts	0
Net savings	$ 8,772

The trust used by Mr. B is a method of transferring real property to a minor. If it had been irrevocable, then it could have been important in saving estate taxes. Mr. B was only concerned with the guarantee of a property transference, but he did not realize that the trustee of a trust was not automatically the guardian after death.

Finally, Mr. B, along with the consent of his son, transferred two-thirds of his property across one generation to his grandchildren. This intergenerational transfer can be used to save taxes in many cases. The main disadvantage of this method of transfer is that it could cause dissention if the middle generation does not agree.

Case C

This estate contained 655 acres of land. Mr. C's major enterprises were cotton, corn, soybeans, and a 100-cow dairy. Mr. C had 430 acres of row crop land, 200 acres of pasture, and 25 acres of woodland and living area. Farming was the only business interest Mr. C had.

Mr. C was 70 to 75 years of age when he died, and his wife was between 65 and 70. They had three children: one daughter 50 to 55 years old, and two sons in the age bracket of 35 to 45 years. Mr. C had completed high school and taken shortcourses in bookkeeping.

Mr. C carried out very little estate planning during his life, which resulted in excessive estate taxes and hardships after his death. He did make one gift to his sons during his lifetime. In 1960, he gave each of his sons an 80-acre tract of land, with a total value of $32,000.

Mr. C had drawn up a will in 1965 and his major objectives were to: (1) treat each member of the family fairly and equally, (2) keep the land together and retain it within the family, and (3) retain the farmland as the last asset to be sold in order to pay any debts or taxes.

The family believed that Mr. C's will did not fulfill his objectives, because one of the sons sold his land to cover a divorce settlement. The other family members felt that there should have been a "no sale" clause in the will to prevent this occurrence.

Mr. C's estate had very little liquidity to cover the amount of taxes resulting from the method of distribution he chose. Mr. C's estate plan left only one-fourth of the estate to his wife and one-fourth to each child. By not leaving at least one-half of the estate to his wife he did not take full advantage of the marital deduction, thus the resulting taxes were very high. He did not realize the importance of the marital deduction in reducing his estate taxes. Since Mr. C had very few liquid assets, he caused his family to suffer hardships.

Mr. C's estate consisted of the following assets:

	Gross estate	*Probate estate*
Real estate (including home)	$309,250	$309,250
Insurance on Mr. C's life	10,000	------
Other personal property	20,000	20,000
Total	$339,250	$329,250

Mr. C had most of his assets tied up in land as most farmers do, which explains why many farmers have liquidity problems. Mr. C's only source of liquid assets was the life insurance of $10,000. He did not have any cash, bonds, or stocks to contribute to the payment of debts or taxes. This created problems for the executor and reduced the value of the estate transferred to the heirs.

Mr. C's liabilities were quite large for a person of his age. He still had over $35,000 in debts on his property. Along with this, there was a large amount of estate tax due on the estate, as can be seen below. Mr. C's estate is summarized as follows:

Case C's Estate Settlement

Gross estate		$339,250
Less: Indebtedness	$35,000	
Administrative costs	7,000	42,000
Adjusted gross estate		$297,250
Less: Marital deduction	$79,150	
Specific exemption	60,000	139,150
Taxable estate		$158,100
Gross estate tax		$ 38,130

The Federal and State estate taxes amounted to $38,130, which totaled to $80,130 liabilities faced by the estate. To pay these debts the executor had to sell the farm machinery and cattle, which reduced each heir's estate. The sale of this part of the farm business decreased the efficiency of the remaining farm. The daughter rented her land to her brother, who was already in farming. This, along with his inherited land meant he would have to expand his machinery and livestock to be at the same level of production and efficiency. He had to wait until the next year to finance this expansion. The land which was sold because of the divorce action was simply a loss to the family. This incident shook family relationships, and worst of all Mr. C's estate was depleted and divided. The family blamed the lawyer, however, Mr. C could have presented these problems by planning the transfer more thoroughly and making greater use of estate planning tools.

Did Mr. C fulfill his objectives? As stated, the total farm was not kept together, which was against Mr. C's wishes. All of the land, other than that sold for the divorce settlement, was saved even at personal loss to the son and daughter. Finally, the division of the estate was fair and equal to each family member. So, Mr. C's will fulfilled only one of his objectives.

Case D

Mr. D was a beef cattle and dairy farmer. He had 300 head of beef cattle and 200 head of dairy cows. The beef cattle were solely his, however, he was in partnership with his brother in the dairy operation. He owned 1,750 acres of land with 250 acres of woodland, 1,100 acres in permanent pasture and 400 acres planted in winter grazing.

Mr. D died at an early age, 40 to 45 years old. His wife was within this same age range. They had two minor children, a daughter and a son, at the time of his death. Both were between 15 and 20 years old. Mr. D had completed high school and one year of college. He was active in county politics and was holding a county office at his death in addition to his farming operation.

Since Mr. D died at such an early age, he had very little chance to conduct a long term estate plan, however, he had taken the necessary steps to protect his family. Mr. D had taken out mortgage insurance or decreasing term life insurance to cover all of his debts. In addition to this he had ordinary life in-

surance of $10,000 to contribute to the liquidity balance. He also had $10,000 of savings in the bank, which brought the total liquid assets to $20,000 for the payment of taxes, since the mortgage insurance covered the debts.

Mr. D made no gifts during his lifetime. But, he made a will several years prior to his death, his objectives in his will were to: (1) provide security for his wife during her lifetime, and the children until their maturity, (2) minimize the loss of any part of the estate from debts and taxes, and (3) retain the farm in one complete producing unit.

The provisions of this will left one-half of the estate to Mrs. D and one-fourth to each of the children. Mr. D's intentions in leaving Mrs. D one-half of the estate was to take full advantage of the marital deduction, and to transfer that to be taxed, directly to the children to prevent it from being taxed again at Mrs. D's death. To transfer this property to his minor children, Mr. D used a testamentary trust and appointed an adult trustee to control the property, because minors have legal difficulty in managing real property. Mrs. D was appointed trustee of the property until the son and daughter reach some specified age. When the son and daughter reach the age stated in the provisions of his will they will get full control of their half of the farm. This illustrates one of the important functions of the trust as an estate planning tool.

Mr. D also included in his will a clause nominating a guardian, which is a very important step, when minor children are involved. As was illustrated in Case B this can save court costs and legal assistance. Mrs. D did not have a will at the time Mr. D died but she had one prepared a short time later.

After Mr. D's death, Mrs. D had the farm business formed into a partnership between her and the two children. This was done to maintain uniform management until the estate was completely transferred.

Mr. D's estate was comprised of the following assets:

	Gross estate	*Probate estate*
Real estate (including house)	$113,500	$113,500
Mortgages, notes and cash	10,000	------
Insurance on decedent's life	10,000	------
Personal property	75,500	75,500
Total	$209,000	$189,000

The probate estate was less than the gross estate, because the cash was in a joint checking account, and the life insurance did

not have to be probated. This provided liquidity to the estate.

Mr. D had a substantial amount of debt on the land, but he had the foresight to have this covered by indebtedness insurance. This is an important tool to protect not only the family from creditors, but also to conserve the estate in case of an early death. His liabilities amounted to $23,000, but this was paid by the insurance. The estate was settled with very few problems, because Mr. D had planned his estate well and had taken the necessary precautions to protect his family. The settlement is summarized below:

Case D's Estate Settlement

Gross estate		$209,000
Less: Indebtedness	$ 0	
Administrative cost	8,900	8,900
Adjusted gross estate		$200,100
Less: Marital deduction	$100,050	
Specific exemption	60,000	160,050
Taxable estate		$ 40,050
Gross estate tax		$ 4,811

Mr. D's objectives were fulfilled in this plan. The children's part of the estate was protected and still provided income for their use, until they assumed full control. Mrs. D had financial security provided by the returns from her half of the estate. All the farmland was rented immediately after Mr. D's death; however, now the son is farming his part. Mr. D completed his second objective by using the term life insurance to cover his debts and also using the marital deduction to its fullest potential. Thus, the farm was kept in one producing unit.

Case E

This farm consisted of 620 acres of land including the homestead area. The major enterprise was beef cattle. There were 200 acres of row crop land and 160 acres of permanent pasture used in the production of feed grains and forage for the cattle and 240 acres of woodland. The homestead consisted of 10 acres of land and the house.

Mr. E was 60 to 65 years of age when he died. Mrs. E was also in this age range. They had three children – the oldest daughter was between 40 to 45, the youngest daughter was 25 to 30 and the son was 20 to 25 years of age. The daughters had no interest in farming, but the son stayed on the farm and continued the operation after the death of his father. Mr. E had graduated from high

school and had been a farmer all of his life, with no other business interest.

Mr. E had done very little estate planning prior to his death, and did not obtain professional consultation in the preparation of his will, rather he used a "general will format," which resulted in some settlement problems. His objectives in preparing this will were to: (1) transfer the farm business on to his son with the intentions of keeping the farm land together and productive, (2) provide adequate finances for his wife for the remainder of her life, and (3) facilitate the transfer process with the minimum of time and problems.

Mr. E's "ready made will" did not fulfill his objectives. There were problems created by this will that he had not anticipated. He had stipulated in his will that all the farm land be transferred to his son. However, approximately half of this land was owned in joint tenancy with right of survivorship, with his wife. Therefore, she became sole owner of this part of the property at Mr. E's death. The property owned in joint tenancy with his wife was eligible for the marital deduction.

Another mistake Mr. E made in preparing his will was that he stipulated the number of beef cattle he had at the time of preparing his will. After preparing his will, he purchased some additional livestock, and did not provide for disposition of this additional livestock. A lawyer could have foreseen these problems and prevented the confusion created by Mr. E's will.

To indicate the effect of these mistakes on Mr. E's estate, Mr. E's estate settlement is presented below. Mr. E had the following assets:

	Gross estate	*Probate estate*
Real estate (sole owner)	$ 54,000	$ 54,000
Real estate (joint owner)	52,500	------
Stocks and bonds	200	200
Mortgages, notes and cash	500	500
Insurance on Mr. E's life	62,500	------
Personal property	56,000	56,000
Total	$225,700	$110,700

Since Mr. E had over half of his property in jointly owned real property and in life insurance, his probate estate was relatively small. The contradiction in Mr. E's estate plan resulted in confusion, additional costs, and the division of the farm. Although the contradiction between the will and form of ownership resulted in some problems, the fact that the form of ownership

took priority over the will saved Mr. E's estate several thousand dollars in estate taxes. If his son had received the entire farm the taxable estate would have been four times larger.

The major reason Mr. E had a large amount of life insurance was to cover the $58,000 mortgage on his land. Also contributing to his debts was $7,700 in funeral and administration costs. Thus, the total liabilities of his estate were $65,700.

Mr. E's estate took longer to settle and with higher costs than would have been the case with proper estate planning. A lawyer had to be hired to settle the question of land ownership. The estate was divided into two parts. The wife received the land she held jointly with Mr. E, the house and surrounding 20 acres, and the son received the remainder of the land with all the equipment and livestock. The son was allowed to continue farming the entire farm. The daughters received some urban property and a house Mr. E owned in an adjoining town valued at $12,000. The settlement can be seen below.

Case E Estate Settlement

Gross estate		$225,700
Less: Indebtedness	$58,000	
Administrative costs	7,700	65,700
Adjusted gross estate		$160,000
Less: Marital deduction	$80,000	
Specific exemption	60,000	140,000
Taxable estate		$ 20,000
Gross estate tax		$ 1,600

The added administrative and legal costs of $5,000 resulting from solving the conflicts made by the will created hardships on the family which could have been avoided. The time involved in court settlement and the extra costs for lawyers also affected the farm business. The farm had to take second priority during this period, which meant a loss of efficiency, and the money used to pay the legal and administrative cost were intended for use in expanding the farm business.

The proper preparation of the will is an important step in preparing estate plans. This case illustrates the results that can occur if the will is improperly prepared.

Case F

This farm would be classified as a beef cattle farm. Mr. F had 385 acres of land – 220 acres of pasture, 130 acres of row crop land, and 35 acres of woodland. Mr. F's residence was not on the farm, but there was a tenant house included with the

farm estate. The major crops produced were peanuts, cotton, corn, and rye. He also had a herd of 175 head of beef cattle.

Mr. F died at the age of 50 to 55 years old, and left a wife who was 45 to 50. He had one daughter by a prior marriage who was 25 to 30 years old. There were also two step-sons, who were not included as beneficiaries. Mr. F had completed 4 years of college, and had another job in addition to farming.

Mr. F died at a relatively young age and had made no transfers during his lifetime. Mr. F had made a will a number of years prior to his death, and his objectives in making this will were to: (1) provide security for his wife during her lifetime, (2) transfer the property with a minimum of problems and conserve the estate during the transfer, and (3) transfer a portion of the estate to his daughter. Mr. F's assets are summarized below:

	Gross estate	*Probate estate*
Gross estate (including home)	$108,250	$108,250
Stocks and bonds	2,356	2,356
Mortgages, notes and cash	2,607	------
Insurance on Mr. F's life	25,700	------
Jointly owned property	53,990	------
Total	$192,903	$110,606

In this case, the machinery and livestock were held in joint ownership between Mr. and Mrs. F. Also included in the jointly owned property was an account containing Mr. F's accumulated retirement. Mr. F also had a large amount of life insurance which did not have to be probated. This left mainly the farm land to be probated.

Mr. F also had several liabilities to be deducted from his estate.

Funeral expenses and administration cost	$ 4,495
Mr. F's debts	2,792
Mortgages and liens	24,080
Total	$31,367

The mortgage was the remainder owed on the farm land.

Mr. F's estate settlement could be summarized as follows:

Case F Estate Settlement

Gross estate		$192,904
Less: Indebtedness	$26,872	
Administration cost	4,495	31,367
Adjusted gross estate		$161,537
Less: Marital deduction	$80,768	
Specific exemption	60,000	140,768
Taxable Estate		$ 20,769
Gross Estate Tax		$ 1,707

Mr. F did fulfill his objectives by transferring a substantial estate to both Mrs. F and his daughter. This transfer was made in a very smooth and orderly manner. However, estate taxes could have been reduced further if Mr. F had transferred part of his estate through gifts; so this objective was not fulfilled completely.

Mr. F's will divided the estate between Mrs. F and his daughter. Mrs. F received one-half of the farm assets, the stocks and cash. The taxes and the mortgages were paid after selling the equipment and livestock. The land has been rented from that time to present. The daughter received the other half of the farm along with the house in town. Mrs. F received $9,000 in life insurance and Mr. F's daughter received the remaining $16,666. They both felt that Mr. F's objectives were fulfilled.

Since there was no one to operate the farm after Mr. F's death, the equipment and livestock were sold to pay the taxes and debts. There were losses resulting from liquidation of these assets and a reduction in the efficiency of the land for that year.

A trust with provisions for a neighbor or farm management specialists to handle these farm assets might have reduced these losses. Also there are many trust departments of banks that have managers qualified to handle a farming operation. Thus a testamentary trust with a well-qualified trustee might provide a better return to the family than renting the farm to tenants. As stated earlier, estate planning is a very broad field and can be flexible to meet almost any problem.

Case G

Case G was a beef cattle operation. This farm had 8,500 acres of land – 500 acres of row crop land, 600 acres of pasture, and 7,398 acres of woodland. The homestead made up the other 2 acres.

Mr. G died at the age of 75 to 80, and Mrs. G was also within this age range. They had four daughters ranging in ages from 35 to 40 years of age, and one son 30 to 35 years of age, who continued to operate the farm after his father's death. Mr. G had farmed over 50 years and had never engaged in any other business activities. He had completed 11 years of education.

Mr. G's farming operation at his death consisted of 192 head of mature beef cattle, and over 500 acres of row crops. The major crops were cotton, corn, and soybeans. The 7,398 acres of

woodland were providing some income from forestry operations.

Mr. G had made some lifetime gifts prior to his death, but these were not part of any planned giving program. He gave $4,600 to each of the children a number of years prior to his death, and an additional $2,100 to his son the following year. He could have used lifetime gifts to further reduce his estate, which would have reduced the taxes due. Since half of his estate was to eventually go to his children, the distribution would have been the same with a lifetime giving program, but at lower estate taxes. Of course, there are always risks involved in reducing the estate early, but by holding the estate, the estate taxes will automatically reduce it, only to a source outside the family.

Mr. G, with the legal advice of a lawyer, made a will a few years before he died. If Mr. G had consulted him earlier, the lawyer might have helped him further reduce his estate taxes. The will was a simple statement of his wishes with one special clause: he specified that his wife would get one-half of his estate for the specific purpose of reducing estate taxes, which was one of his objectives. It also stipulated that each of the children would receive one-tenth, or divide the second half equally. The simplicity and directness of this will resulted in a smooth and flawless transfer.

As can be seen above Mr. G's major objectives in making his will were to: (1) ensure the reduction of estate taxes by fully utilizing the marital deduction, (2) facilitate the transfer of the estate with the minimum of time and confusion among the family, and (3) provide adequately for Mrs. G during her remaining lifetime.

Mrs. G carried on Mr. G's plan by preparing a will at the same time he did, leaving her half of the estate to the children in equal shares. Mrs. G is still living and has not made any alterations to this plan.

Mr. G's estate had the following assets:

	Gross estate	*Probate estate*
Real estate (including house)	$232,189	$232,189
Mortgages, notes and cash	18,120	18,120
Jointly owned property	37,333	----
Personal property	24,173	24,173
Total	$311,815	$274,482

Mr. G's liquid assets amounted to just over $18,000, so Mr. G's liquidity could be described as low or insufficient for his plan. He

did not believe in life insurance, thus, there was not any insurance to be collected when he died. There was obvious need for further estate planning by Mr. G.

Mr. G's liabilities can be summarized as follows:

Funeral expenses and administration costs	$ 9,237
Debts of the decedent	17,000
Net loss during administration	740
Total	$26,977

The net loss during administration was the loss that resulted from the son's entanglement in legal processes of estate settlement during which time he should have been planting his crops. The administrative costs included fees for the lawyer and charge for administration by the executor. The debts included hospital bills and a mortgage on a small tract of land.

The estate settlement is presented below:

Case G Estate Settlement

Gross estate		$311,815
Less: Indebtedness	$ 17,000	
Administration costs	9,900	26,900
Adjusted gross estate		$284,915
Less: Marital deduction	142,457	
Specific exemptions	60,000	202,457
Taxable estate		$ 82,458
Gross estate taxes		$ 15,780

The lifetime gifts given prior to Mr. G's death amounted to $25,000; if these had been added to the gross estate the taxes would have been $3,508 more. This result is summarized in the following table.

Tax Summary

	Taxes paid
Mr. G's estate plan (without gifts)	$19,288
Mr. G's estate plan (with gifts)	15,780
	3,508
Added cost of gifts	0
Net savings	$ 3,508

The biggest flaw in Mr. G's plan was the large amount of estate taxes and debts required to be paid by his estate at his death. By using gifts he could have reduced his estate taxes much further and still left a sizable estate for him and Mrs. G. No part of the farm was required to be sold to pay taxes, only because the children sacrificed part of their savings for this purpose.

The family felt that Mr. G's objectives were fulfilled, but improvements in his estate plan could have saved losses to estate taxes. The taxes were not minimized, the family had to sacrifice

savings to the debts and estate taxes and there was very little cash available to Mrs. G for living expenses.

Case H

This Alabama farm was used in the production of beef cattle, cotton, and soybeans. There were 612 acres of land on this farm – 250 acres were used for row crops, 237 for pasture, and 125 for woodland.

Mr. H died at a very young age of between 40 and 45 years old, and his wife was two years younger than he was. They had two children; the son was 15 to 20 and the daughter was 10 to 15 years old. The son planned to operate the farm when he finished high school. Mr. H had been farming since he left high school. He started farming with his father, then farmed rented land until he bought enough land for his separate farm. He had completed 12 years of formal education and had no other business interest.

Mr. H had not accumulated enough property to make any transfers prior to his death, but he had made a will that provided security and prompt settlement of his estate after his death. Mr. H had consulted a lawyer in preparing this will and explained to him his desire of protecting the security of his family.

Mr. H's objectives in preparing his will were to: (1) provide security for his wife and children after his death, (2) prevent loss of any part of the farm business to debts or taxes, and (3) facilitate the transfer of the estate to the family with the minimum of problems.

Mr. H succeeded in fulfilling all of these goals. He saw the value of term life insurance in covering large, long-term debts, so that in the case of his death, the farm could be kept in the family debt free. In addition to this, he had $8,000 of ordinary life insurance to pay any taxes that were required, and to provide some living expense money. The land is presently being rented to Mr. H's brother, which is also providing some income.

By having indebtedness life insurance, Mr. H prevented any part of his farm from having to be sold to cover farm mortgage debts. He also stipulated in his will that only under extreme hardship and only after every other asset had been sold, could the land be sold. This farm was to be held together for his son's use if the son maintained his objective of farming.

Mr. H was advised wisely to transfer one-half of his estate to his minor children. He established two testamentary trusts for his children with their mother being the trustee and receiving any returns from their half for their support. Since minor children cannot manage real property, he included a "nomination of guardian" clause appointing Mrs. H as guardian of the minor children and executor of the estate. There was also a specific bequest describing the property that was to go to Mrs. H including the house and the surrounding one-half of the property.

Mr. H made his plan based on the worst that he could expect, an early death, but he planned well, and conserved his estate against any possible loss.

Mr. H had a sizable estate, for a person of his age. He had the following assets:

	Gross estate	*Probate estate*
Real estate (including home)	$129,000	$129,000
Stocks and bonds	2,300	2,300
Insurance on decedent's life	8,000	------
Jointly owned property	6,000	------
Personal property	23,000	23,000
Total	$168,300	$154,300

Mr. H's liquidity situation was very good, he left $8,000 in insurance, $2,000 in cash, and $2,300 in stocks which was enough to pay the taxes and provide Mrs. H with some living expense money. Mr. H's liabilities would have been $20,000 greater if he had not taken out term life insurance to cover the mortgage on the farm. The only indebtedness against the estate was the $4,200 funeral and administration costs. Court costs were not very high, because Mr. H had anticipated the legal entangelements and eliminated them. Thus, the estate settlement was smooth and prompt as he desired. The settlement can be seen below.

Case H Estate Settlement

Gross estate		$168,300
Less: Indebtedness	$ 2,200	
Administrative costs	2,000	4,200
Adjusted gross estate		$164,100
Less: Marital deduction	$82,050	
Specific exemption	60,000	142,050
Taxable estate		$ 22,050
Gross estate tax		$ 1,887

There were adequate insurance proceeds to pay the estate taxes with some remaining for Mrs. H's living expenses, and now

the son is getting ready to begin full operation of the farm. Thus, Mrs. H survived Mr. H's death fairly well, financially.

Case I

Mr. I's farm was used in producing cotton, soybeans, and 45 head of beef cattle. There were 700 acres of land – 350 acres of row crops, 150 acres of pasture, and 196 acres of woodland. The remaining acreage was used for living area.

Mr. I was 70 to 75 years old when he died and his wife was 60 to 65 years of age. Mr. I had three children by a previous marriage, who ranged in ages from 45 to 55 years old. There were two sons between 15 to 20 years old from his present marriage. Mr. I had farmed over 50 years and had no other business interest.

Mr. I had made one small transfer prior to his death. He had given his oldest son nine acres of land in 1960 valued at $900. This, however, had very little effect on the settlement.

Mr. I had made a will in 1960, and made some changes (adding a codicil) in 1966. The assistance of a lawyer was obtained to prepare the will. Mr. I's objectives in preparing the will were to: (1) facilitate the transfer of the estate with a minimum of problems and taxes, (2) ensure equal treatment of all children according to their contribution, and (3) reduce resentment between the two families.

Mrs. I completed Mr. I's plan by preparing a will the same year as her husband. Her will left that part of the estate transferred to her, to her two children at her death.

Mr. I's will stipulated that each of his oldest sons were to receive 180 acres of land, and his daughter was to receive $6,000 in cash. He transferred 100 acres to each of the two younger sons by means of a testamentary trust. Mrs. I had a life estate in this land and was also the trustee of the trust. This land is being rented to the older brother for farming. Mrs. I also received the house and the remaining land.

Mr. I had the following assets in his estate:

	Gross estate	*Probate estate*
Real estate (including home)	$75,900	$75,900
Stocks and bonds	10,400	10,400
Miscellaneous property	10,500	10,500
Insurance on Mr. I's life	250	------
Total	$97,050	$96,800

The liquidity was good, since there were no taxes or debts, other than the funeral and administration costs. This amounted to only $1,300. Mr. I's estate settlement is presented below.

Case I Estate Settlement

Gross estate		$97,050
Less: Indebtedness	$ 1,000	
Administrative cost	300	1,300
Adjusted gross estate		$95,750
Less: Marital deduction	$36,650	
Specific exemption	60,000	96,650
Taxable estate		$ 0
Gross estate tax		$ 0

The estate was settled with very few problems and all of Mr. I's objectives were fulfilled. His estate plan was simple, and would have needed updating as the family situation changed.

Case J

This farm was a dairy operation, with over 200 dairy cows. The farm consisted of 912 acres of land – 280 acres of row crops, 372 acres of pasture, and 260 acres of woodland. The row crop land was used to produce corn for feed and rotated with winter grazing for the cows.

The dairy herd contained 205 head of mature cows, and the barns had modern equipment. The operation was continued by two of the sons after Mr. J's death. Farming was Mr. J's only business interest.

Mr. J was between 55 and 60 years of age when he died. He left a wife, who was in this same age bracket and five children. The three sons were between 25 and 30 years of age, and the two daughters ranged from 20 to 25 years old. The oldest and youngest sons had an interest in the farm. Mr. J had graduated from high school and college. He had been farming for 38 years on this same farm.

Mr. J had made a will in 1938 and had changed it as the family situation changed. Mr. J had consulted a lawyer and insurance underwriter in preparing his estate plan. His will had a simultaneous death clause, nomination of guardian, marital deduction clause and a specific bequest. Mrs. J had a will passing her estate to her husband or to her children if he were dead.

Mr. J's objectives in preparing an estate plan were to: (1) allow the farm to continue smoothly during the estate settlement period, (2) transfer the property intact – no part of the farm was

to be sold except within the family, (3) keep the estate taxes to a minimum, and (4) provide for all the children in an equitable manner.

Mr. J's distribution by his will was very simple – all of his real property went to his wife, and the livestock and equipment went into a partnership, established by the will between his two sons and Mrs. J. Mr. J instructed in his will that Mrs. J use lifetime gifts in transferring the farm land in equal shares to the children. The partnership could use any or all of the land transferred, and had the option to buy a family member's share before it could be sold outside the family. The livestock and equipment were transferred to this partnership – one-third to each partner. This provided for continuation of the farming operations, because each of the children was aware of Mr. J's plan before he died. The family feels that after the lifetime gifts are completed, all of Mr. J's objectives will be fulfilled.

Mr. J's assets are summarized below.

	Gross estate	*Probate estate*
Real estate (including home)	$220,000	$220,000
Stocks and bonds	12,000	12,000
Insurance on Mr. J's life	58,000	-----
Jointly owned property	3,000	-----
Other personal property	52,000	52,000
Total	$345,000	$284,000

Mr. J's estate was primarily land, as are most farm estates. He did have $58,000 of life insurance payable to Mrs. J to pay the estate taxes and the large debt. The life insurance and jointly owned property were not included in the probate estate. The personal property included the equipment and livestock.

Mr. J had a large debt on his estate, which is summarized below.

Funeral expenses and administration costs	$ 3,290
Mortgage on Mr. J's land	70,000
Total	$73,290

These were combined in the settlement to determine the adjusted gross estate. Mr. J's estate settlement was calculated as follows:

Case J Estate Settlement

Gross estate		$345,000
Less: Indebtedness	$ 70,000	
Administrative cost	3,290	73,290
Adjusted gross estate		$271,710
Less: Marital deduction	$135,855	
Specific exemption	60,000	195,855
Taxable estate		$ 75,855
Gross estate tax		$ 13,939

This estate plan fulfilled Mr. J's objective of keeping the farm estate together, and if the lifetime giving plan is completed, before Mrs. J's death, it will minimize the estate taxes on her estate; however, Mr. J could have reduced his estate taxes by making some lifetime gifts prior to his death. Since his sons helped in his farming operations, and they were to become his partners had he lived, Mr. J could have given them parts of the farm land and equipment before his death. Mr. J's estate plan was simple, but it did fulfill most of his objectives.

Effects of Inflated Land Prices on the Case Estates

Most Alabama farmers inherited or bought their farms many years ago, and some of them are not aware of how much their farms have increased in value. Land values in Alabama have increased every year for the past 20 years, and farms have also increased in size, so many Alabama farm estates are going to be taxed quite heavily unless there has been adequate estate planning done prior to the death of the farmer.

In this section the value of the case estates will be updated to present values, to show the effect of changes in estate taxes from increasing gross estates, and indicate the effects of these increases on the estate plan and the family. Since every estate contains different assets at different values, certain assumptions were made to reduce the influence of inflation on all but one asset. This asset is land or real property. Land was chosen as the most significant indicator of increased estate values since it makes up a major part of every farm estate. One assumption made was that the depreciation and selling of equipment and livestock would be offset by the reduction in the debt and the purchase of new livestock and equipment. Also, it was assumed that all other personal property would remain the same in value over this period.

The first part of each analysis will compare the original settlement with the estimated settlement presented at present values. This section will show the effect of time and inflation on the estate taxes and the resulting family situation. The second half of each analysis compares the estimated estate settlement using the plan of the estate owner, and the settlement that would be obtained if no estate planning were used. This section will also compare the effects on the family resulting from each plan.

The following percentage increases in land values were used in converting the estate land values in the case estates to present values. These are the average percentage increases in Alabama farm real estate values since 1965.

Year	*Percent increase**
1965	10.3
1966	10.9
1967	12.0
1968	6.9
1969	10.0
1970	7.0
1971	14.5
1972	4.4
1973	22.4

* U.S. Department of Agriculture. *Farm Real Estate Market Developments.* Several selected current volumes.

All the estates were updated to 1973 land values.

Case Estate A at Present Values

	Mr. A's estate plan		*No estate planning*	
Gross estate		$250,623		$623,600
Less: Indebtedness	$ 7,500		$37,500	
Administration cost	1,300	8,800	1,300	38,800
Adjusted gross estate		$241,823		$584,800
Less: Marital deduction	$120,912		$44,500	
Specific exemption	60,000	180,912	60,000	104,500
Taxable estate		$ 60,911		$480,300
Gross estate tax paid in 1971				$ 4,877
Gross Estate tax at present values				$ 9,755
Gross estate tax with no estate planning				$139,396
Net savings from estate planning			$129,641	

Mr. A's estate settlement in 1971 showed a gross estate of $209,500 and estate tax paid of $4,877. Under present values the estate would increase by $41,123 to $250,623 and the estate tax would increase to $9,755, which is a $4,878 increase. If Mr. A had lived and continued his lifetime giving program he would have reduced his gross estate by $36,000. Subtracting this and computing the estate tax shows a tax of $5,441, which is only $564 more than in 1971. Mr. A's estate plan would continually reduce the gross estate, keeping estate taxes at a minimum.

In comparing Mr. A's estate plan with the settlement resulting from no estate planning several advantages can be seen. Mr. A reduced his gross estate from $623,600 to $250,623 by making lifetime gifts. The value of these gifts is included in the value of the gross estate in the section computing estate taxes with no estate planning. The estate tax resulting from Mr. A's estate plan would be $9,755, and under the Laws of Descent and Distribu-

tion the estate tax would be $139,396. This shows a tax savings of $129,641 using lifetime gifts and a will. This shows that estate planning can be very valuable to the Alabama farmer in preventing excessive erosion in the value of his estate at death. The distribution of property by the state intestacy laws results in much higher estate taxes and a less than optimum transfer.

One disadvantage of transferring property by gift is the basis of the property to the donee. Usually the cost basis to the donee of property acquired by gift is the donor's basis plus the gift tax paid. The basis of property received by inheritance is the fair market value at the date of decedent's death. Thus property received by gift would usually have a lower basis and if the donee sold it, he would have more capital gains tax to pay than if he had received the property through inheritance and sold it later.

Under the Laws of Descent and Distribution, Mrs. A only receives $44,500 outright, a child's part of the personal property, and a life estate in 400 acres of land (one-third of the real property). Only the value of the property she receives outright can be deducted under the marital deduction. This reduction in the marital deduction accounts for the major part of the increase in estate taxes. Mrs. A can receive the income from the real property but she cannot reduce its value or sell it even in case of economic hardship. The state intestacy laws are very rigid and would result in added administrative cost and family problems. Mr. A's estate plan is obviously a much better plan for fulfilling his objectives and reducing estate erosion.

Case Estate B at Present Values

	Mr. B's estate plan		*No estate planning*	
Gross estate		$238,657		$379,057
Less: Indebtedness	$ 100		100	
Administration cost	3,500	3,600	3,600	3,600
Adjusted gross estate		$233,057		$375,457
Less: Marital deduction	$77,685		$35,503	
Specific exemption	60,000	137,685	60,000	95,503
Taxable estate		$ 95,372		$279,954
Gross estate tax paid in 1970				$10,210
Gross estate tax at present values				$19,404
Gross Estate tax with no estate planning				$75,285
Net savings from estate planning			$55,881	

Mr. B's estate plan was not as flexible as in case A, so the increase in the land values would have a direct effect on the estate taxes. Mr. B's estate settlement in 1970 had a gross estate of $187,407 and at present values it would increase to $238,657. The

estate taxes paid in 1970 were $10,220, and at present values the taxes would increase to $19,404. Since Mr. B did not have a regular giving program, this increase would require additional liquidity within the estate or forced liquidation of some of the farm assets.

Mr. B's gross estate was $379,057 before making his lifetime gifts, which reduced it to $238,657. Mr. B's estate taxes without estate planning would have been $75,285, and by having an estate plan he would have saved his estate $55,881. The marital deduction even though only one-third of the estate and the lifetime gifts contributed to the decreased estate taxes. Under the Laws of Descent and Distribution, Mrs. B would have gotten $35,503 outright, a child's share of the personal property, and life estate in 240 acres of land (one-third of the real property).

The Laws of Descent and Distribution usually do not fulfill the objectives of the estate owner in terms of property distribution. This would hold true in this case, because Mr. B's desired heirs would not have received the property. By these laws Mr. B's son would have received two-thirds of the real property and the balance when Mrs. B died, as well as one-half of the personal property. The grandchildren, who Mr. B. wanted to receive the estate, would not have received any part of the estate. Mr. B's objectives of property distribution were fulfilled by his estate plan. Thus estate planning provides advantages over transference by law, because the designated heirs receive the property as well as dollar savings in estate taxes paid.

Case Estate C at Present Values

	Mr. C's estate plan		*No estate planning*	
Gross estate		$402,948		$474,468
Less: Indebtedness	$35,000		$35,000	
Administration cost	7,000	42,000	7,000	42,000
Adjusted gross estate		$360,948		$432,468
Less: Marital deduction	$85,850		$ 7,500	
Specific exemption	60,000	$145,850	60,000	67,500
Taxable estate		$215,098		$364,968
Gross estate tax paid in 1971				$ 38,130
Gross estate tax at present values				$ 55,229
Gross estate tax with no estate planning				$102,489
Net savings from estate planning			$47,260	

Mr. C's gross estate in 1971 was $339,250 and $38,130 was paid in estate taxes. Based on present values his gross estate would have been $402,948, and the estate taxes would be $55,229 or an increase of $19,529 in estate taxes in 2 years. As pointed out earlier these high taxes resulted because Mr. C did not take full

advantage of the marital deduction. The added estate taxes caused by increased land value would only create further problems and probably cause forced liquidation of part of the farm.

By preparing an estate plan Mr. C saved his estate $47,260. Mr. C made some gifts prior to his death reducing his gross estate from $474,468 to $402,948, which resulted in some tax savings. The estate tax under his plan would have been $55,229, and with no estate planning the estate tax would have been $102,489. Dying intestate can also increase the administrative costs and settlement problems. This would have resulted in this case.

Case Estate D at Present Values

	Mr. D's estate plan		*No estate planning*	
Gross estate		$344,092		$344,092
Less: Indebtedness	$ 0		$ 0	
Administration cost	8,900	8,900	8,900	8,900
Adjusted gross estate		$335,192		$335,192
Less: Marital deduction	$167,596		$38,500	
Specific exemption	60,000	227,596	60,000	98,500
Taxable estate		$107,596		$236,692
Gross estate tax paid in 1965				$ 4,811
Gross estate tax at present values				$22,978
Gross estate tax with no estate planning				$61,708
Net saving from estate planning:			$38,730	

Mr. D's estate plan would not adjust for inflating land values. The estate taxes would have increased as long as land value continued to increase. Mr. D's estate taxes in 1965 were $4,811 on a gross estate of $209,000. At present values the gross estate would be $344,092 with estate taxes of $22,978. These added estate taxes would have increased the liquidity requirement of the estate.

Mr. D made no gifts prior to his death so his gross estate would be the same with his estate plan and without an estate plan. Under the Laws of Descent and Distribution the estate taxes would be $61,708; with Mr. D's estate plan the estimated gross estate taxes would be $22,978, which would be a tax savings of $38,730. Mr. D's main estate planning tool was a will using the marital deduction to its fullest extent. Under the Laws of Descent and Distribution, Mrs. D would receive $33,500 outright, a child's share of the personal property, and a life estate in 588 acres of land (one-third of the real property), which would be sufficient for her support, but only that property she receives outright can be deducted under the marital deductions. This reduced marital deduction results in excessive estate taxes. The ad-

ditional taxes would probably require the sale of part of the farm business. This plan would not fulfill Mr. D's objectives.

Case E at Present Values

	Mr. E's estate plan		*No estate planning*	
Gross estate		$265,479		$265,479
Less: Indebtedness	$58,000		$58,000	
Administration cost	7,700	65,700	7,700	65,700
Adjusted gross estate		$199,779		$199,779
Less: Marital deduction	$99,889		$48,425	
Specific exemption	60,000	159,889	60,000	108,425
Taxable estate		$ 39,890		$ 91,354
Gross estate tax paid in 1970				$ 1,600
Gross estate tax at present values				$ 4,780
Gross estate tax with no estate planning				$18,279
Net savings from estate planning			$13,499	

Mr. E's gross estate in 1970 was $225,000 and at present values it would be $265,479, which would result in estate tax increase from $1,600 to $4,780. Mr. E's estate plan was based on a will and joint ownership of one-half of his property. The one-half of the real property that was jointly owned was transferred to Mrs. E because joint ownership with right of survivorship conveys real property. This property qualified for the marital deduction. Also the life insurance which Mrs. E received was included in the marital deduction. He could have further reduced his estate taxes by instigating a lifetime giving program to his son.

Comparing the estate tax on Mr. E's estate at present value to the estate under the Laws of Descent and Distribution shows an estate tax savings of $13,499. The only change is the reduced amount of property deductible under the marital deduction, which explains the tax increase.

Under Mr. E's estate plan his wife would receive one-half of the real property outright (the jointly-owned property), but by the Laws of Descent she would only receive a life estate in 200 acres of land (one-third of all the real property), and $48,425, a child's share, of the personal property. The personal property is all that would qualify for the marital deduction, so the estate taxes will be higher under the state intestacy laws. Under Mr. E's estate plan the estate taxes are lower and the farm is not divided.

Case Estate F at Present Values

	Mr. F's estate plan		*No estate planning*	
Gross estate		$237,481		$237,481
Less: Indebtedness	$ 26,872		$26,872	
Administration cost	4,495	31,367	4,495	31,367
Adjusted Gross Estate		$206,114		$206,114
Less: Marital deduction	$103,057		$50,505	
Specific exemption	60,000	163,057	60,000	110,505
Taxable estate	$ 43,057		$95,609	
Gross estate tax paid in 1970				$ 1,707
Gross estate tax at present values				$5,472
Gross estate tax with no estate planning				$19,470
Net savings from estate planning			$13,998	

Mr. F's estate settlement in 1970 had a gross estate of $192,904 and paid estate taxes of $1,707. At present values the value of this estate would be $237,481 and the estate taxes would increase to $5,472. This increase would not cause any financial problems, but it would reduce the value of assets transferred to his wife and daughter.

In analyzing Mr. F's estate plan against the Laws of Descent and Distribution, a net savings of $13,998 was shown. If Mr. F's estate were distributed under Descent laws the estate taxes would be $19,470. The daughter would receive ownership of all the real property, and use of two-thirds of this property. The daughter also receives one-half of the personal property. Mrs. F would receive life estate interest in 128 acres of land (one-third of the real property), and one-half of the personal property. This would not take full advantage of the marital deduction and would result in excessive estate taxes. This plan would not fulfill Mr. F's objectives.

Under Mr. F's estate plan Mrs. F was financially better off and more secure than under the Laws of Descent. Mr. F provided sufficient liquidity to adjust for increased estate taxes.

Case Estate G at Present Values

	Mr. G's estate plan		*No estate planning*	
Gross estate		$540,043		$565,043
Less: Indebtedness	$ 17,000		$17,000	
Administration cost	9,900	26,900	9,900	26,900
Adjusted gross estate		$513,143		$538,143
Less: Marital deduction	$256,657		$15,925	
Specific exemption	60,000	316,657	60,000	75,925
Taxable estate		$196,486		$462,218
Gross estate tax paid in 1966				$ 15,780
Gross estate tax at present values				$ 49,646
Gross estate tax with no estate planning				$133,609
Net savings from estate planning			$83,963	

Mr. G's estate was settled in 1966 with a gross estate of $311,815 and estate taxes of $15,780. At present values the value of his estate would be $540,043 and estate taxes would be $49,646. This is a $36,631 increase in estate taxes. These added estate taxes would probably have forced the sale of part of the farm, which would reduce the farm efficiency. Mr. G's estate plan did show a substantial reduction of estate taxes when compared to having no estate plan. Under the Laws of Descent and Distribution Mr. G's estate taxes would be $133,609, which is $83,963 more than would have resulted under his own estate plan.

Many farms in Alabama may be similar in some respect to this case; this estate has more than doubled since the estate owner bought or inherited the farm, and the estate taxes have increased even more. These excessive estate taxes are likely to cause forced liquidation of part of the farming operation and reduction in efficiency.

Under the intestacy laws Mrs. G would receive one-fifth of the personal property or $15,925, and a life estate in 2,833 acres of land (one-third of the real property). This would be insufficient for her support, but she would be more financially independent under Mr. G's estate plan.

Case Estate H at Present Values

	Mr. H's estate plan		*No estate planning*	
Gross estate		$257,001		$257,001
Less: Indebtedness	$ 2,200		$ 2,200	
Administration cost	2,000	4,200	2,000	4,200
Adjusted gross estate		$252,801		$252,801
Less: Marital deduction	$126,400		$26,650	
Specific exemption	60,000	186,400	60,000	86,650
Taxable estate		$ 66,401		$166,151
Gross estate tax paid in 1968				$ 1,887
Gross estate tax at present values				$ 11,292
Gross estate tax with no estate planning				$ 40,545
Net savings from estate planning			$29,253	

This farm estate was settled in 1968 and $1,857 was paid in estate taxes on a gross estate of $168,300. Under present values the value of the gross estate would increase to $257,001 and the estate tax would be $11,292, which is a $9,435 increase since 1968. As land values increase the estate taxes will increase unless the estate plan reduces the gross estate. In this case the increased taxes would reduce the liquid assets, leaving Mrs. H with very little living money.

Mr. H would save his estate $29,253 in estate taxes by preparing a will. The estate taxes using Mr. H's estate plan would be

$11,292 at present values and with no estate planning the taxes would have been $40,545. If Mr. H had died intestate his wife would have received only $26,650, a child's part, of personal property and life estate in 204 acres of land, (one-third of the real property). Under Mr. H's estate plan she would receive one-half of the adjusted gross estate, which would provide more sufficiently for her, as well as reduce the estate taxes. The Laws of Descent and Distribution would not fulfill Mr. H's objectives.

Case Estate I at Present Values

	Mr. I's estate plan		*No estate planning*	
Gross estate		$128,713		$129,613
Less: Indebtedness	$ 1,000		$ 1,000	
Administration cost	300	1,300	300	1,300
Adjusted gross estate		$127,413		$128,313
Less: Marital deduction	$43,790		$ 4,430	
Specific exemption	60,000	103,790	60,000	64,430
Taxable estate		$ 23,623		$ 63,883
Gross estate tax paid in 1969				$ 0
Gross estate tax at present values				$ 2,107
Gross estate tax with no estate planning				$10,587
Net savings from estate planning			$8,480	

This farm estate was settled in 1969 with a gross estate of $97,050, and there were no estate taxes paid at that time. Under present values the value of the estate would be $128,713 and there would be $2,107 due in estate taxes. Since Mr. I gave his wife only 9 acres of land, the house and some personal property, her share of the estate would increase very little. This would result in the increase in the estate value being reflected directly in increased estate taxes. Mr. I's estate plan would save $8,480 in estate taxes when compared to no estate plan. The taxes under Mr. I's plan would be $2,107 at present values and under the Laws of Descent and Distribution the estate taxes would be $10,587.

Mr. I's estate plan is very simple and direct, but it does fulfill his objectives, and at the same time reduce his estate taxes. Estate planning is not extremely expensive, when compared to the losses that can result if it is not done.

This case when settled was valued under 1972 prices and showed a gross estate of $345,000, with estate taxes paid of $13,937. Under present values the gross estate would be $394,-280, and the estate taxes due on this estate would be $22,348. On an estate of this size, and there are many Alabama farms that would exceed this size, estate taxes can increase over $6,000

Case Estate J at Present Values

	Mr. J's estate plan		*No estate planning*	
Gross estate		$394,280		$394,280
Less: Indebtedness	$ 70,000		$70,000	
Administrative cost	3,290	73,290	3,290	73,290
Adjusted gross estate		$320,990		$320,990
Less: Marital deduction	$160,495		$27,400	
Specific exemption	60,000	220,495	60,000	87,400
Taxable estate		$100,495		$233,590
Gross estate tax paid in 1972				$13,939
Gross estate tax at present values				$22,348
Gross estate tax with no estate planning				$60,777
Net savings from estate planning			$38,429	

in one year. This indicates the importance of keeping the estate plan current with changing economic conditions.

Under the Law of Descent and Distribution the estate taxes on this estate would be $60,777. Mr. J would have saved $38,429 in estate taxes by having prepared a will. Under the Laws of intestacy Mrs. J would receive only $27,400, a child's share, in personal property and life estate in 304 acres of land (one-third of the real property). This would be sufficient for her support, but under Mr. J's plan she would receive income continuously from her partnership in the farm. Mr. J's estate plan keeps the farm together and reduces the estate taxes, where the Laws of Descent and Distribution would not.

Application of Estate Planning Tools in Alternative Plans

This section will use selected case estates to illustrate the use of estate planning tools, and their effects on estate settlement. It is assumed there will be adequate time for long range planning of the estate. The settlement values are based on the present values of the estate; as these values are more relevant to Alabama farmers of today. The objective is to establish a good estate plan for the operators of these farm estates, which will fulfill their objectives and minimize estate taxes.

Plan 1. Use of a will and martial deduction to its fullest potential.

The case used in this illustration is case estate C. Mr. C would like to transfer his estate to his three children, but he wants to retain full control of the farm until his death; so he will not consider a lifetime giving program or an irrevocable trust to reduce the gross estate. His estate plan will consist mainly of a will, but since his objectives include reducing estate taxes, he should include a marital deduction clause in his will directing

distribution of one-half of the gross estate to Mrs. C, with the remainder of his estate passing to the three children in equal shares. A simultaneous death clause should also be included stating that in the event both he and Mrs. C die in a manner that prevents the determination of the first deceased, it should be assumed that Mrs. C survived. There should be a clause in Mr. C's will leaving all the estate to the children if Mrs. C died first. A clause designating an executor of the estate, such as his son, should be included along with appointment of guardian if minor children are involved.

Mrs. C should execute a will that gives her estate to her husband if she predeceases him, or the children in equal shares if he is deceased. Her will should also include a clause appointing an executor.

Mrs. C should purchase an additional $30,000 in life insurance on Mr. C's life. She should be both the policy owner and beneficiary, so that the proceeds will not be included in Mr. C's gross estate. This will provide the necessary liquidity for paying the estate taxes, and a portion of the debts. In addition to this, each one of the family members should take out a $10,000 life insurance policy in the same manner on their father. These will be used to pay the remainder of the debt if their father were to die before it was paid. This could be decreasing term insurance varying with the size of the debt.

Mr. C's estate settlement under this plan is presented below. The estate taxes are still high because he chose not to reduce his estate before his death.

Mr. C's Estate Settlement (Using Plan 1)

Gross estate		$402,948
Less: Indebtedness	$ 35,000	
Administration cost	7,000	42,000
Adjusted gross estate		$360,948
Less: Marital deduction	$180,474	
Specific exemption	60,000	
Taxable estate		$120,474
Gross estate tax		$ 26,842

The estate taxes and debts would be covered by the life insurance proceeds, and no part of the farm business would have to be sold. The life insurance that Mrs. C purchased should be ordinary life insurance, so that it would continue coverage up to Mr. C's death, since the estate taxes would not decrease as the debt did.

This same estate is presented below with a lifetime giving program introduced aimed at reducing the gross estate prior to Mr. C's death. It is assumed the objective of retaining control of the entire farm until his death, has been changed by Mr. C. This assumption is made to show the economic effects of a lifetime giving program.

Plan 2. A lifetime giving program ranging over a ten-year period combined with a will and marital deduction.

Since Mr. C no longer desires to retain full control of his farm, he can add changes to his estate plan. A lifetime giving program will be added to reduce the taxable estate. Mr. and Mrs. C execute the same wills as in the previous plan. This will prevent excessive estate taxes on the estate if the lifetime giving program is not completed before Mr. C dies. After the giving program is completed Mr. C should change his will leaving the remaining estate to his wife.

The lifetime giving program will continue, until Mr. C's estate is as low as he feels adequate for him and his wife to live on. The giving program is assumed to last 10 years, which will leave them an estate of $162,948. Mr. and Mrs. C will make the gifts jointly to obtain the maximum tax allowances. The first year they can give $60,000 tax free by using their lifetime exemptions, and additional $6,000 to each of their children, which amounts to $18,000 per year. This total program reduces the estate by $240,000 prior to Mr. C's death. The estate settlement under this plan is presented below.

Mr. C's Estate Settlement (Using Plan 2)

Original gross estate		$402,948
Less: Lifetime gifts		240,000
Gross estate at death		$162,948
Less: Indebtedness	$35,000	
Administration cost	7,000	42,000
Adjusted gross estate		$120,948
Less: Marital deduction	$60,474	
Specific exemption	60,000	120,474
Taxable estate		$ 474
Gross estate tax		$ 24

This estate plan reduces Mr. C's estate taxes by $26,818 as compared to estate Plan 1. This illustrates the importance of lifetime gifts in reducing estate taxes. Many Alabama farmers plan to transfer their farms to a son or some other family member, who might already be helping in the operation. Lifetime gifts can be

used to reduce estate taxes and also encourage children to remain on the farm.

After Mr. C's death Mrs. C would begin making lifetime gifts and continue this for 5 years. She could give $3,000 to each of her children annually, reducing her estate by $45,000. The estate settlement with this program assuming Mrs. C lives 5 years is presented below.

Mrs. C's Estate Settlement (Using Plan 2)

Original gross estate		$120,948
Less: Lifetime gifts		45,000
Gross estate at death		$ 75,948
Less: Indebtedness	$ 0	
Administration cost	3,000	3,000
Adjusted gross estate		$ 72,948
Less: Marital deduction	$ 0	
Specific exemption	60,000	60,000
Taxable estate		$ 12,948
Gross estate tax		$ 721

By using estate Plan 2, Mr. and Mrs. C would have conserved their estate by $50,747. Incorporation of the farm would allow the gifts to be made uniformly and at the same time provide for continuation of the farming operation during the estate settlement period. The stocks from the farm corporation would be much easier to transfer than the property itself. If the owner is not confident of the management ability of his son, he may desire to retain a controlling interest, 51 percent of the stock in the farm. If the farm is not incorporated, the farm may be divided upon the death of the owner.

This estate plan provides a basis for fulfilling Mr. C's objectives, including the reduction of estate taxes. This plan should facilitate the transfer process and prevent the disruption of the farming operations. The plan provides for equal property distribution to the children, and leaves Mrs. C with an adequate estate for her security. The lifetime gifts reduced the gross estate and thus minimized the estate taxes. Even if Mr. C had died before the completion of the giving program, the gifts up to that point would reduce the estate taxes, and the will would complete the transfer. This farm estate case contributes support to the hypothesis that Alabama farmers can use estate planning tools to reduce estate planning problems and estate taxes.

Plan 3. Use of an irrevocable trust in transferring property to minors.

In some cases the estate owner might want to transfer assets to a minor, for example, grandparents to a grandchild or a young man trying to spread a large estate in case he were to die early. The irrevocable trust provides several advantages to the estate owner. Case estate B was used to illustrate the use of this estate plan. In this case Mr. B transferred part of his estate across a generation to his grandchildren. Since the heirs were minors, a trust would be a means of ensuring efficient management of the real property until they were competent to manage.

By using split gifts between Mr. B and his wife, the property to be given to the grandchildren could be transferred to a trust for them. The father of the children could be appointed trustee, since he was already managing the farm. Mr. B was planning to retire within a few years and give his son full management of the farm. The parent's living expenses would be reduced at this time, so they could reduce their portion of the farm, without creating financial problems. By using split gifts, he and Mrs. B could transfer $72,000 of his estate to the grandchildren's trust the first year, and $12,000 annually tax free. Mr. B can continue this until he reaches his desired estate value. Assuming he made these gifts for 4 years, he would have transferred $108,000 out of his gross estate. The estate settlement under this plan is presented below.

Mr. B's Estate Settlement (Using Plan 3)

Original gross estate		$238,657
Less: Gifts into trust		108,000
Gross estate at death		$130,657
Less: Indebtedness	$ 100	
Administration cost	3,500	3,600
Adjusted gross estate		$127,057
Less: Marital deduction	$63,629	
Specific exemption	60,000	123,629
Taxable estate		$ 3,428
Gross estate tax		$ 106

Mr. B would reduce his estate taxes by $8,876. Since his son was already operating the farm and also was the trustee of the children's part, the farming operations should continue without delay through the transfer period. After Mr. B's death Mrs. B could further reduce her estate by continuing Mr. B's lifetime giving program into the grandchildren's trusts. She could give $3,000 to each of them annually. Since her living requirements

would be reduced at her age, this should not cause any financial problems. Assuming she used the gift program for 5 years after her husband's death, her estate settlement is present below. The gifts of $30,000 are deducted from the gross estate.

Mrs. B's Estate Settlement (Using Plan 3)

Original gross estate		$127,423
Less: Gifts into trust		30,000
Gross estate at death		$ 97,423
Less: Indebtedness	$ 0	
Administration cost	$ 3,000	3,000
Adjusted gross estate		$ 94,423
Less: Marital deduction	$ 0	
Specific exemption	$60,000	60,000
Taxable estate		$ 34,423
Gross estate tax		$ 3,796
Total estate tax (Plan 3)		$ 3,902
Total estate tax (Mr. B's Plan)		$ 17,014
Savings from estate Plan 3		$ 13,112

This plan provides estate tax savings of $13,112 and provides security for both Mr. and Mrs. B while they are living. In addition to this estate planning tool they should both prepare a will similar to Plan 1, including a specific bequest to each other of the amount of the estate required to meet their financial needs. This will complete the transfer of the remaining estate to the grandchildren should Mr. or Mrs. B die before they anticipate.

The son as trustee should purchase $20,000 decreasing term life insurance on his father to cover the estate taxes should he die before the transfer plan is completed. The trust would be the beneficiary of this insurance, therefore the premiums would be paid from the returns of the grandchildren's trust.

Plan 4. Use of multiple trusts with management outside the family. A transfer made at death to heirs, who are unable to manage the farm estate.

When a farmer has a young wife, who is inexperienced in managing a farm, with minor children, and a relatively large estate; he should consider a trust using a professional management agency or a trust department of a bank to handle the management of the farming operations. In some cases a son may not be interested in farming as a vocation, but a grandchild might, and management is needed until he is old enough to manage. Many family situations require management assistance, and a family member may not be available to provide the management needed in a farming operation, so an outside management agency must

be hired. Case estate H will be used to illustrate this combination of estate planning techniques.

Mr. H prepared his will several years prior to his death. At that time he researched the available farm management agencies in his area and decided the cost and returns of this service was better than the return obtained from renting the farm. Also the farm management agency would provide for continuation of the farm, and still provide income to the family until the son is old enough to take over the operation.

Mr. H used a will in directing the establishment of a trust for his wife and son. He appointed as trustee the agency or trust department of a nearby bank offering this service to farmers. The will should take full advantage of the marital deduction dividing the adjusted gross estate between the two trusts. The income from Mrs. H's trust would support her and the daughter, while the income from the son's trust can be used for his support, as well as expansion of the farming operation.

When the son becomes capable of managing the farm, the will can direct that the son receive his half of the farm and also become trustee of his mother's half. Mrs. H's half of the farm will provide support for her until she dies, at which time it is transferred to her son and daughter equally.

Mr. H's Estate Settlement (Using Plan 4)

Gross estate		$257,001
Less: Indebtedness	$ 2,200	
Administration cost	$ 2,000	4,200
Adjusted gross estate		$252,801
Less: Marital deduction	$126,401	
Specific exemption	$ 60,000	186,401
Taxable estate		$ 66,400
Gross estate tax		$ 11,292

Mr. H's estate taxes are high, but since he died at a relatively young age, a lifetime giving program would not have been completed. To provide the necessary liquidity to pay these taxes, as well as provide the necessary money for living expenses, until income from the trust is received, Mrs. H should purchase $20,000 of life insurance on her husband's life.

The son should take out a life insurance policy on his mother at a later date to provide liquidity to pay the estate taxes at her death. After both children have matured and left home Mrs. H could begin a lifetime giving program to reduce her estate, since her financial demands will be reduced. Rather than making the

gifts all at once, she could spread them out as she grows older. Over a 10-year period she would want to reduce her estate to about $90,000, which would be sufficient for her support. This is about one-third of the farm, which is still in her trust. Mrs. H's estate settlement is presented below.

Mrs. H's Estate Settlement (Using Plan 4)

Original gross estate		$126,001
Less: Lifetime gifts		36,001
Gross estate at death		$ 90,000
Less: Indebtedness	$ 0	
Administration cost	$ 3,000	3,000
Adjusted gross estate		$ 87,000
Less: Marital deduction	$ 0	
Specific exemption	$60,000	60,000
Taxable estate		$ 27,000
Gross estate tax		$ 2,580
Total estate tax (Plan 4)		$ 13,872
Total estate tax (Mr. H's Plan)		$ 21,744
Savings from estate Plan 4		$ 7,872

The lifetime gifts given after the children were gone, caused the reduction in estate taxes. The trusts provided the necessary management of the farm by the farm management agency, until the son was capable of managing the farm. By having Mrs. H's half of the farm in trust with the son to become the trustee, the son would receive management control over the entire farm. The income from the farm under a management agency should exceed that received from rent, so the income is greater under this plan. By using the farm management agency, up-to-date cultural practices are applied to the farm, and the son could learn and continue these practices as he took over the control of the farm.

SUMMARY AND CONCLUSIONS

This study analyzed ten actual Alabama farm estates that had been settled within the last 10 years. The case studies revealed a wide range of problems these estate owners faced during and after the settlement. Some of these problems were visible in all the estates and others were distinct to a particular family. Conclusions with respect to both kind and frequency of estate settlement problems may lead to guidelines in estate planning for Alabama farmers.

The ages of the owners at their deaths ranged from 44 to 78 with the average being 63 years. Eight of the ten estate owners had prepared their estate plans within 10 years of their death. This can be very risky; since death is so uncertain, everyone should prepare a will when they accumulate any property of

value. The wills in three of the estates resulted in some confusion, which was caused by one of two things: (1) the estate owner did not obtain professional assistance in preparing the will or (2) the estate owner did not keep the will current with economic and family conditions. It was also found that in almost every case the estate plan did not fully fulfill the estate owner's objectives.

In every case estate the estate plan used by the owner was shown to conserve his estate from the erosive forces of estate taxes, when compared to the estate taxes resulting from the Alabama Laws of Descent and Distribution.

The value of the case estates were updated to present values using the average percentage increases of Alabama farm real estate since 1965. Land values were used as the best indicator of inflation, because it makes up the largest part of the farm assets. In every case the gross estate was increased because land values had increased every year since 1965.

Several of the case estates were selected to apply alternative estate plans, to demonstrate the use of the estate planning tools and their effects on the estate taxes. The alternative plans also included descriptions of important clauses and tools that can be used, where special family problems prevent the use of the normal procedures.

The case studies presented indicate that the estate plans of many Alabama farmers may be inadequate in meeting the estate owner's objectives. In a majority of the case estates, one or more of the objectives of the estate owner were not fulfilled. The case studies also provided support of the hypothesis that Alabama farmers could increase the value of their transferred estates through the use of available estate planning tools. Alternative plans were presented, using selected estates, that showed the use of these tools and the tax savings resulting from their use. Case estate C was presented using a will and a life-time giving program. An estate tax savings in excess of $50,000 resulted from the plan.

Another alternative plan was presented using lifetime gifts made into an irrevocable trust using case estate B. This plan showed an estate tax reduction of more than $13,000. An estate plan can establish a trust using a farm management agency to manage farm property for minors or a wife. This plan was ap-

plied using case estate H. Income resulting from this type of trust may exceed the income that could be obtained by just renting the land.

Inflating land values had a significant effect on most of the estate settlements. The estate plan used in case estate A contained a lifetime giving plan that would continually reduce the effects of the inflating land values. Two of the estates were too small to show very much response to the increased land values. The other eight estates, however, showed very significant increases in their estate taxes, when their land values were increased.

This study has emphasized the need for proper estate planning by Alabama farmers and summarized the estate planning tools they have available to them for this purpose. This need is multiplied when the farmer sees the expected appreciation of farm assets, particularly land. The low liquidity base of farm estates also contributes to the need for estate planning by Alabama farmers.

The three major estate planning tools were analyzed as to their contribution to the estate plan. The optimum estate plan will probably consist of a combination of these tools. Lifetime gifts provide a means of reducing the gross estate prior to death. Irrevocable living trusts can be used to remove property from the gross estate, and still provide proper management for a minor, wife or a family member who needs assistance in managing the farm. Property put in trusts as a gift, qualifies for the lifetime exemption ($30,000) and annual exclusion (3,000 per individual).

The will is probably the most important document prepared by the estate owner. Since the wording of this instrument is very important, the assistance of a lawyer should be obtained in its preparation, and in any changes to be made resulting from changing economic or family conditions. The will combined with full use of the marital deduction was shown to reduce the estate taxes more at death than any other estate planning tool.

Life insurance is important as a means of supplying liquidity for paying debts, estate taxes and administration cost. Life insurance can also be used to build a larger estate, or equalize the shares to beneficiaries.

This analysis has been based on actual Alabama farm estates, but every farm estate and family situation is different. Estate planning is a personalized process demonstrating the objectives of the estate owner, and every owner's estate plan will be differ-

ent. This study was directed to emphasize the importance of estate planning and to encourage every Alabama farmer to prepare his own estate plan, because the Laws of Descent and Distribution will seldom fulfill his objectives. The estate plan can be very satisfying to the estate owner while he is living and the family members will appreciate the reduction of taxes and problems they have to face upon the estate owner's death.

APPENDIX A

Descent and Distribution

Descent of real estate[1]

The real estate of persons dying intestate, as to such estate descends, subject to the payment of debts, charges against the estate, and the widow's dower, as follows:

(1) To the children of the intestate, or their descendants, in equal parts.

(2) If there are no children or their descendants, then to the father and mother, in equal parts.

(3) If there are no children or their descendants, and if there be but one surviving parent, then one-half to such surviving parent, and the other half to the brothers and sisters of the intestate, or their descendants, in equal parts.

(4) If there are no children or their descendants, no brothers or sisters or their descendants, and if there be but one surviving parent, then the whole to such surviving parent.

(5) If there are no children or their descendants, and no father or mother, then to the brothers and sisters of the intestate or their descendants, in equal parts.

(6) If there are no children or their descendants, no father or mother, and no brothers or sisters or their descendants, then the whole to husband or wife of the intestate.

(7) If there are no children or their descendants, no father or mother, no brother or sisters or their descendants, and no husband or wife, then to the next of kin to the intestate, in equal degree, in equal parts.

(8) If there are no children or their descendants, no father or mother, no brothers or sisters or their descendants, no husband or wife, and no next of kin capable of inheriting, then it escheats to the State.

Distribution of Personal Estate[2]

The personal estate of persons dying intestate as to such estate, after the payment of debts and charges against the estate, is to be distributed in the same manner as his real estate, and according to the same rules; except that the widow, if there are no children, is entitled to all the personal estate, or, if but one child, she is entitled to one-half; if more than one, and not more than four, children, to a child's part; and if more than four children, to one-fifth.

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[1] Code of Alabama, Title 16, Section 1.

[2] Code of Alabama, Title 16, Section 10.

APPENDIX B

The Alabama Laws of Descent And Distribution[1]

Decedent	*Personal property*	*Real property*[2]
Married man, no children.	All outright to wife.	One-half to wife for life and one-quarter each to his father and mother. Upon wife's death her share goes to husband's parents: if only one is living he or she gets half of that share and brothers and sisters and their descendents get the other half. If no parent living, brothers and sisters and their descendents get all the property.
Married man, fewer than five children.	Equally divided among wife and children.	One-third to his wife for life, then to his children: two-thirds to children in equal shares.
Married man, five or more children.	One-fifth transferred to wife, and balance to children in equal shares, or to their descendents if children are not living.	One-third to wife for life, then to children; two-thirds to children in equal shares, or their descendents.
Married woman, husband and no children.	One-half to husband and one-quarter to each of wife's parents. If either parent is deceased, his or her share is divisible among wife's brothers or sisters or their descendents. If both parents are deceased their shares are divided among the wife's brothers and sisters or their descendents.	All to husband for life, then to wife's parents.
Married woman, husband and children.	One-half transferred to husband, and one-half to children or their descendents in equal shares.	All to husband for life, then to children or their descendents in equal shares.
Widow or widower with child or children.	Equally divided among children or to their descendents.	

[1] This describes who gets the use of the property based on *Code of Alabama*, Title 16, para. 1-13.

[2] This includes the wife's "dower right" and the husband's "statutory right." (Code of Alabama, Recompiled 1958. Title 16, Sec. 12).

Unmarried person or widow or widower no children or parents.	Estate divided equally among her brothers, sisters and their descendents.
Unmarried person or widow or widower, no children, but father and mother surviving.	One-half to father and one-half to mother. When only one parent survives, he or she takes one-half, and one-half is divided among the decedent's brothers, sisters and their descendents; if there are none, the surviving parent takes all.
Married person, no children, brothers, sisters, or descendents and no parents.	All to wife or husband.
Person leaving no spouse, parents or children, brothers or sisters or their descendents.	The next of kin in equal degree, and in equal parts.
Person leaving no spouse, parents, or children, brothers, or sisters or their descendents, or next of kin.	Then the estate is transferred to the next of kin of the intestate's pre-deceased spouse in the same order of priority as provided for descent to the kin of the intestate.
Same as above and no next of kin capable of inheriting.	Escheat to State.

APPENDIX C

Credit Allowed for Estate Tax on Prior Transfers[1]

A tax credit is allowed to an estate if it contains property that was included in the gross estate of another person that died within the past 10 years, and if there were Federal estate taxes paid by that estate. The credit is a percentage of the Federal estate tax paid on the prior estate. The percentage credit changes every 2 years. The allowable credits are presented below:

(1) The credit is 100 percent of the estate tax on the prior transfer, if the transferor of the prior estate predeceased the decedent by less than 2 years.

(2) Eighty percent of the estate tax on the prior transfer, if the transferor of the prior estate predeceased the decedent within 4 years.

(3) Sixty percent of the estate tax on the prior transfer, if the transferor of the prior estate predeceased the decedent within 6 years.

(4) Forty percent of the estate tax on the prior transfer, if the transferor of the prior estate predeceased the decedent within 8 years.

(5) Twenty percent of the estate tax on the prior transfer, if the transferor of the prior estate predeceased the decedent within 10 years.

(6) After 10 years no credit is allowed for taxes paid on prior transfers.

[1] *Internal Revenue Code,* Sec. 2013, p. 4457.

APPENDIX D

The Executor's Duties in Settling The Estate[1]

1. The Executor Studies the Will

a. Locates and notifies the witnesses.

b. Confers with the attorney who will represent the estate, if needed.

c. Notes any special instructions to him in the will.

d. Meets with the family members and other interested persons to discuss the provisions of the will.

2. Arranges for Probate of the Will

a. Prepares notice to the decedent's creditors.

b. Gives notice of appointment to banks, investment brokers or others with which the decedent held assets.

c. Arranges for his bond, if necessary.

d. Opens a bank account for the estate transactions.

3. Combines, Inventories and Assumes Custody of Assets

a. Searches for all assets of the estate owner, if not already known.

b. Files claims for any benefits, (Social Security, etc.) that are due.

c. Assembles confirming data and establishes value of the assets of the estate. He has assets appraised by a qualified appraiser when advisable or required by law. He inspects the real estate and studies leases and mortgages.

d. Examines all life insurance policies and informs the companies of the owner's death.

e. Determines if any retirement compensation or other delayed payments are due to the estate.

4. Reviews the Decedent's Financial Records.

a. Gathers records of the decedent's financial transactions for the years immediately prior to his death, and studies any business interest that might be included in his estate – such as partnerships, jointly owned property, etc.

b. Obtains all cancelled checks and brokerage records of the decedent for the past several years.

c. Gets reproductions of all insurance policies that are owned by others, also including those deductable under the marital deduction.

d. Investigates gifts that were made within 3 years of the decedent's death to determine the motive of the gifts and the decedent's medical history.

e. Studies the decedent's income tax return for that year, and prepares data to support it when audited.

5. Administers the Estate

a. Collects all income, receivables and other monies owed to the decedent or estate.

b. See that the widow and children receive support allowance authorized by law.

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[1] Pinna, *Estate Planning for North Carolina Farm Families*, pp. 29-32.

c. Directs any business interest that the decedent had and closely follows the management and transactions of the enterprise.

d. Has periodic meetings with the family and interested parties informing them of his actions.

e. Handles all claims against the estate determining their validity.

f. Maintains and provides management for the real estate passing through his hands.

g. Represents the estate against any lawsuits against the decedent or the estate.

h. Sells assets when necessary to obtain liquidity for the payment of debts, taxes or other settlement costs.

i. Determines whether the property should be included in the probate estate or pass outside the estate.

j. Determines whether persons receiving property outside of probate should contribute toward paying estate taxes, if so the proportion.

6. Responsible for All Tax Returns.

a. Files a final income tax return for the decedent, and obtains necessary records preparing for the tax audit.

b. Files the federal preliminary estate tax notice.

c. Files the Alabama Estate Tax Return if required.

d. Determines whether any credit is available against the Federal estate tax for property taxed in another estate.

e. Files the Federal Estate Tax Return. He is responsible for valuing the estate property, and decides whether the estate is to be valued as of the date of death or 1 year later.

f. Determines whether administration expenses are to be deducted against the Federal income or estate tax.

g. Responsible for adding substantiating evidence of the contents of the estate tax return, such as copies of trust agreements or financial statements of the decedent's business interest.

7. Distributes the Estate.

a. Generally, can make partial distributions as the estate administration progresses.

b. Prepares the data for final accounting, and shows all assets, income and disbursements and distributes the estate in accordance with the will.

c. Receives releases from the beneficiaries.

APPENDIX E

Steps in Settling the Estate

1. The will is filed with the county probate court.

2. A petition to probate the will is filed with the court. The will can be offered for probate by any person interested in the estate. This should be filed within 5 years from the death of the owner.

3. At least 10 days notice must be given to the widow and the next of kin before a hearing to probate the will.

4. Hearing – wills must be proved by one or more of the subscribing witnesses. If one witness is dead or incompetent, then it can be proven by the handwriting of the testator, and at least one subscribing witness.

5. Upon the identification of the will, a court order will admit the will for probate.

6. **Petition for Letters Testamentary** – The court officially appoints the executor. A bond of the executor must be filed unless specifically released by the will.

7. The executor collects and inventories all assets of the testator, and attempts to collect all debts owed to the deceased.

8. If there is a minor child, then a guardian must be appointed. Petition of guardianship must be filed with the court. A hearing is then held and the court issues Letters of Guardianship.

9. After the executor has inventoried all property, it must be appraised.

10. The court will order a notice to creditors. This notice must be published once a week for 3 weeks establishing a future date for filing the claims against the estate.

11. The creditors will make their claims against the estate, and the executor will determine their legitimacy.

12. If no declaration of homestead has been made previously, a petition should be made to the court to set apart a homestead. Also any exempt personal property should be identified if the debts might exceed the assets. The court will order the protection of this property.

13. The executor must file a petition for a family allowance. This is determined by the courts.

14. Filing of the Federal Estate Tax Return.

15. The executor files his final reports and accounts.

16. If the court is satisfied with the reports, it will order the final distribution of the property.

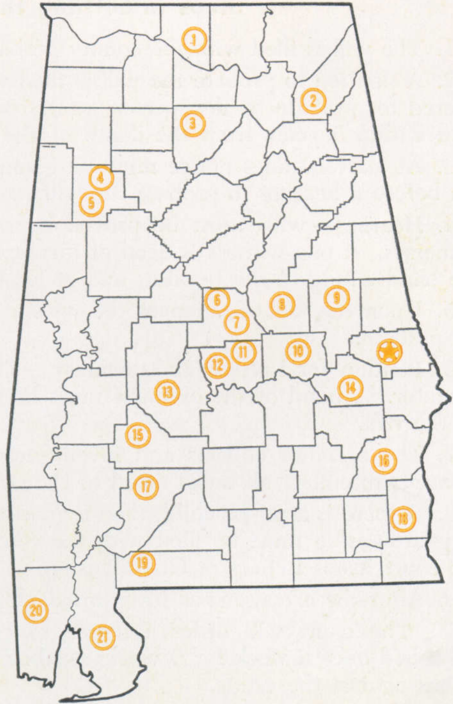
17. The executor will have to receive clearances for the payment of the estate and income taxes.

18. After the property is distributed, the executor obtains a receipt from each heir.

19. The court will give the executor a final discharge after these clearances and receipts are obtained.

Alabama's Agricultural Experiment Station System
AUBURN UNIVERSITY

With an agricultural research unit in every major soil area, Auburn University serves the needs of field crop, livestock, forestry, and horticultural producers in each region in Alabama. Every citizen of the State has a stake in this research program, since any advantage from new and more economical ways of producing and handling farm products directly benefits the consuming public.



Research Unit Identification

Main Agricultural Experiment Station, Auburn.

1. Tennessee Valley Substation, Belle Mina.
2. Sand Mountain Substation, Crossville.
3. North Alabama Horticulture Substation, Cullman.
4. Upper Coastal Plain Substation, Winfield.
5. Forestry Unit, Fayette County.
6. Thorsby Foundation Seed Stocks Farm, Thorsby.
7. Chilton Area Horticulture Substation, Clanton.
8. Forestry Unit, Coosa County.
9. Piedmont Substation, Camp Hill.
10. Plant Breeding Unit, Tallassee.
11. Forestry Unit, Autauga County.
12. Prattville Experiment Field, Prattville.
13. Black Belt Substation, Marion Junction.
14. Tuskegee Experiment Field, Tuskegee.
15. Lower Coastal Plain Substation, Camden.
16. Forestry Unit, Barbour County.
17. Monroeville Experiment Field, Monroeville.
18. Wiregrass Substation, Headland.
19. Brewton Experiment Field, Brewton.
20. Ornamental Horticulture Field Station, Spring Hill.
21. Gulf Coast Substation, Fairhope.