Welcome to Readytalk & the Your Legacy, Your Land webinars!

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Your Legacy,
Your Land:
A Professional’s Viewpoint

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Caroline Kuebler, American Forest Foundation

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Welcome

- Why this series?
- Why now?
- General topics to be covered through the series
- Recordings
Tammy Cushing

Starker Chair of Private & Family Forestry

Extension, Research & Teaching

Degrees in forestry, taxation and forest finance

More importantly:
Mom, wife and daughter

Passionate about helping landowners
Caroline Kuebler

8 years working for the American Tree Farm System, working with landowners

7 years researching forest ecology

Masters in Forest Science

Mom, wife and daughter
Hope to be a Tree Farmer some day!
Where have we been?

- Taking stock of what you have
  - Understanding the assets and their value
- Heirloom or financial asset
- Setting goals
- Conversations with potential heirs
- Generational differences
- Family Meetings!
- Options for your land – heirs and donations
- Ownership Structures
Ownership Types

- Defines who owns the land
- Has tax implications
- Determines liability

- No one right answer!
- Get professional advice
Our Guest: John Ross

- Estate and probate attorney
- Tennessee Tree Farmer of the Year 2003
Sole Ownership/Fee Simple

- One individual with legal title
- Exclusive right of possession
Sole Ownership:

**PROS:**
- Simple
- Low setup costs
- Accounting and taxes relatively simple
- One person makes decisions

**CONS:**
- No liability protection for assets
  - Personal = business
- Transfer by deed or will
- Succession planning harder since no built-in involvement of heirs
- One person makes decisions
Joint Ownership with right of survivorship

- 2 or more parties with undivided interest
- Automatic right of survivorship
- Can transfer with consent
- No transfer at death
- FMV of proportionate share in estate
- Ownership passes automatically at death
Joint w/right of survivorship

**PROS:**
- Simple
- Low set-up costs
- Accounting & taxes relatively simple
- Ownership transfer immediate upon death (no probate)

**CONS:**
- Owners share liability
- Consent needed to sell or encumber
- Always considered equal share
Tenancy in Common

- 2 or more parties with undivided ownership right
- Equal use and possession
- Owner may sell without consent
- At death, ownership passes to heir or beneficiaries
Tenancy in Common

- Will dictates what happens with ownership interest
- FMV of ownership interest included in estate
Tenancy in Common

**PROS:**
- Simple
- Low setup costs
- Accounting & taxes relatively easy
- Co-owners can own different proportions

**CONS:**
- Probate
- Owners can sell or gift without consent
- Owners can demand share of FMV at any time forcing sale
General Partnership

- Co-ownership with establishment of organized entity (the partnership)
- Each partner liable for all debts of business
- Must be conducting business as co-owners for profit
General Partnership

- FMV of decedent’s interest is included in estate
- Partnership interest passes to heirs if no written buy-sell agreement
General Partnership

**PROS:**
- Partners can pool resources & work
- Accounting & taxes relatively simple
- Few restrictions on organization
- No rules governing allocation of profits & losses

**CONS:**
- Shared liability
- Any partner can bind partnership
- No written agreement required
- May terminate at death, bankruptcy, or exit of one partner
- No buy-sell agreement required
- Owners can force sale
Family Limited Partnership

- Partnership made of family members
- Owners are general or limited partners
Family Limited Partnership

**PROS:**
- Allows sharing of ownership with next generation
- General partners have control
- Limited partners can’t sell without consent
- Discounted valuation of shares helps with gifting
- Control where liability lies

**CONS:**
- General partners have liability
- Limited partners can lose liability protection
- May terminate in event of general partner death
- Some key paperwork isn’t required
Limited Liability Corporation

- Owners are members
- Best features of corporation & partnerships
  - Personal assets are protected
  - Flexibility in organization & structure
Limited Liability Corporation

**PROS:**
- All members have limited liability protection
- Operating agreement is required

**CONS:**
- Cost more to set up
- Laws vary by state
S Corporation

- Small corporation taxed like a partnership or sole owner but with corporate liability protection

- Rules govern number of shareholders
S Corporation

**PROS:**
- Avoids double taxation
- Limited liability protection for all

**CONS:**
- Form, language and structure defined by law
- Lacks flexibility
- Annual corporate meetings required
- Appraisal needed to value ownership interest at time of transfer
C Corporation

- Legal entity under state law
- Limited liability protection
C Corporation

**PROS:**
- May have more than one class of stock
- Limited protection from liability

**CONS:**
- Limited flexibility since regulated
- Double tax on money removed
- Assets removed from corporation are taxed on appreciation
Trusts

- Written document
- Specific purpose & rules regarding assets
- Trustee manages the assets for designated beneficiaries
- Lots of flexibility when establishing
- During life or at death
Revocable Living Trust

- Lots of control
- Trustor = trustee
- Amendable/revocable
- Becomes irrevocable at death
Revocable Living Trust

**PROS:**
- Trustor retains control
- Can be altered at any time
- Can assign alternate trustee in case of incapacitation
- No probate on trust assets!

**CONS:**
- No protection from liability or creditors
- Estate will include value of all trust assets
Irrevocable Living Trust

- Can’t be amended or canceled by trustor
- Assets no longer owned by trustor
- Trustee manages the assets according to the terms of trust
Irrevocable Living Trust

**PROS:**
- Avoid probate on trust assets
- Flexibility in planning
- Protection of assets
- Reduce value of estate

**CONS:**
- Changes are difficult to make (court)
- Trustee can have lots of discretion
- Assets are gifts to beneficiaries when transferred
What’s right?

- Depends on goals and circumstances
- Simplicity?
- Liability protection?
- Tax concerns (income and/or estate)?
- Control?
Assignment for November

- Which ownership structure might make sense for the future?
  - weigh pros and cons

- Is your current structure working for you?
Legacy Planning Resources

- Legacy Pledge
- Monthly Webinars (including recordings)
- Worksheets
- Goal setting tools
- And more!

www.mylandplan.org/your-legacy-your-land
Housekeeping

- Follow-up email
- Next webinar: November 17th, same time

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