SELLING THE FARM

9 THINGS YOU HAVE TO KNOW

CONSORTIUM
PRIVATE WEALTH

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1. WHY CONSIDER SELLING THE FARM?

WHY MORE PEOPLE ARE CONSIDERING SELLING THE FARM

For most, it's the right time to slow down after decades of hard work, and retirement may be just around the corner. For others, the lure of extreme prices for farming land is sometimes an offer too good to refuse. There are many opinions and theories that attempt to explain the varying reasons behind these farming land price increases. In my view, the record low interest rates are the primary driver. Whatever the reason, for some it's a golden opportunity.

In this ebook, I will cover what I believe to be the most critical issues that need to be dealt with when selling the farm. From how to go about selling the farm and how to invest the proceeds, through to estate planning. Other topics include income in your final farming years, capital gains tax, superannuation, and other investment entities. Please note that your accounting, legal, and financial advice professionals will be essential during this process. Each profession will have its part to play, and they must work together for your benefit.

WHAT THIS EBOOK ISN'T

This information is not a guide on farm succession planning. This area of farming advice is quite involved, including financial, Centrelink, and emotional elements. I recommend seeking specialised guidance in this area.

ABOUT THE AUTHOR

For the past 25+ years, I've been working as a Certified Financial Adviser helping superannuation investors, farmers, small business owners, and direct share enthusiasts make informed investment decisions.

Choosing the right asset class for your hard earned $$ is the most critical first step. Get this right, and you're on your way to financial independence. As an SMSF Specialist Adviser, I work with Self-Managed Super Fund trustees and other motivated investors who love having control and input as to how their money is invested for their future.

In case you're wondering, no. There are no “get rich quick” schemes here, the advice I give is based on common sense that my clients understand that gets results. No fluff, no hype. My weapon of choice... is always common sense. If you don’t get it we don’t move ahead until you do. AND investing directly by avoiding bank products, reduces fees, saves tax and gives you control.

Robert Goudie
Senior Financial Adviser

ESTATE AGENT OR DIRECT SALE?

2. HOW SHOULD YOU SELL THE FARM?

This transaction will more than likely be the most significant transaction of your life. However, realistically, you do have only one attempt to sell the farm. There are several ways farmers can choose to sell their properties, though there are generally just two used in practice. These transactions are completed either through an state agent or by direct sale to a neighbour.

CHOOSING A REAL ESTATE AGENT

In most small communities we either directly know, or know of, most people. This provides us an advantage wherein we often know and trust an individual before engaging with them. These relationships are built over many years, through friends and family. We may have heard all the good and bad news about an individual.

In my opinion, trust is by far the most important attribute when it comes to the relationship between the client and the agent. For this process to run as smoothly and as positively as possible, there must be an adequate level of trust and confidence held in the agent to do the correct, most beneficial thing by you. In addition to this, referrals that come first-hand from friends and family that have previously dealt directly with the agent are pure gold.

Client testimonials will often feature on a business' website, as they do on my site. I actively ask for testimonials as I know how valuable they are. They can provide an insight into the relationship that has been built with clients. Testimonials take time to write. For many, writing does not come naturally and therefore takes some amount of effort. Longer, more detailed testimonials may show the energy taken to write the Testimonial and the respect the client has for the agent.

PRIVATE SALE, TENDER, OR AUCTION?

The way you choose to sell your property will be a vital choice. It will be impossible to know which method will be best for you and your property. Factors such as supply and demand for your area, the financial strength of farmers close by, and their risk tolerance for expanding and taking on debt.

Given that there are just too many questions that you can't answer, I believe it's best to take the advice of your Real Estate Agent, as they are best placed to answer this question.

WHAT ABOUT COMMISSIONS?

The commissions paid to have an agent sell your farm on your behalf can be a considerable number. I believe everyone, no matter what their role, deserves to be paid well for the job done. However, there are limits to what could be considered fair.

It's important to understand that commissions are negotiable and should be clearly understood before signing on with an agent. I would recommend that any negotiation not only include the percentage amount, but should also state the equivalent dollar amount based on an estimate of the farm's value. Percentages can sound small, but when converted to real dollar amounts they may be quite significant.

GOING IT ALONE, PRIVATE SALE

While I'm a firm believer that we should use professionals that excel in their chosen field, such as Real Estate agents, private deals happen regularly when selling farming land. Often, healthy working relationships with neighbours are built over decades and generations, which can provide the opportunity to sell privately.

BUT WHAT'S THE FARM WORTH?

I believe most farmers have a firm idea of what their farming land is worth. Like any asset, as comparative deals are completed, these figures can be used as a guide when negotiating an asking price. In some cases, there has not been comparative or nearby farming land. In this case, I would recommend using a Certified Property Valuer and paying for their professional opinion as a starting point with your negotiations.

The upside to selling privately is the potential saving of commission. As mentioned above, this can be a significant amount.

The downside, is that a professional Real Estate agent could get a higher price via an auction, tender, or through a negotiation process than you could achieve. Another downside is these types of negotiations can be difficult, and for some, stressful.

UNDERSTAND COMMISSIONS ARE NEGOTIABLE

SPREAD INCOME OVER MULTIPLE YEARS

3. INCOME TAX

AN INCOME EVENT LIKE NEVER BEFORE

It’s common that your taxable income for your last farming year will be inflated and unlike any you have experienced before. Not only will you receive the revenue from the current season, you won't have all the expenses that you typically would as you prepare for the coming season ahead. Compound this with the fact that you need to add the sale of stock and machinery to this figure and it can lead to some significant numbers.

Part of the proceeds from the sale of stock is included in the farm's income in the financial year they're sold. The proceeds from the clearing sale, above that of the deprecation schedule written down value, will be included as income. This amount in isolation can be a substantial number. As a result, some farmers choose to sell off individual pieces of machinery progressively, over multiple years.

FARM MANAGEMENT DEPOSITS

Farm Management Deposits (FMD's) are used as a handy tool to smooth out lumpy farming incomes. They allow you to reduce tax liabilities in high income years, to be redeemed in the tough years when income is low. If farming years have been kind, then there are often FMD's that are still yet to be included in your taxable income. Remember that FMD's merely kick the can down the road, and the funds, when redeemed, will be taxed in that financial year.

Heading into retirement with substantial FMD's can pose a problem. Once you are no longer farming, FMD's must be redeemed within 90 days. When we add this income on to your last year's income, with minimal farming expenses for the coming year, this can cause a problem.

So, what are your options? Retain or leaseback some land and continue to farm at a significantly reduced scale. You can still retain the status as a farmer and continue to maintain the FMD's. With a reduced farming income, FMD's can be progressively redeemed over several years.

TIMING IS CRUCIAL

Quite often spreading your income over 2 to 3 financial years is ideal, in preference to all the last year's income taxed in the one financial year, leaving you with a nasty tax bill.

This involves timing when you receive income payments, planning your clearing sale, and redeeming your Farm Management Deposits. Spreading income over multiple years will have a significant impact on the amount of tax payable.

While paying our share of tax is a normal part of life, minimising the bill within the law is a must. As we know, once we pay our tax bill, the government won't be sending it back anytime soon! Your accountant will be ideally placed to provide the tax planning strategies you will need at this crucial time. I would recommend you seek advice at least 2 to 3 financial years out from your retirement.

4. CAPITAL GAINS TAX

MINIMISING POTENTIAL CAPITAL GAINS TAX

Capital Gains is a great problem to have as it means our businesses and investment assets have gone up in value since the initial purchase. The tax rules for a capital gain can be complicated, but more so when it comes to actively run business assets, like a farm.

The timing of the purchase of the asset is a crucial consideration for a capital gains tax. Those assets purchased before 20th September 1985 are exempt from capital gains tax (CGT), whereas any asset purchased after this date is subject to CGT tax. If an asset is purchased after the 20th September 1985 and has been held for more than 12 months before the sale, it will receive a 50% discount. Any asset sold within the first 12 months of purchase will see the full capital gain applied.

THE SMALL BUSINESS CAPITAL GAIN CONCESSIONS

Individuals that run businesses that meet specific criteria, such as business valuation and income turnover limits, have the potential to access small business CGT concessions to reduce or negate all capital gains. I need to mention from the outset that these exemptions can be extremely complicated. I would recommend that you seek advice from an appropriately qualified accountant in the area. Some of the basic eligibility include:

- You are a small business with an aggregated annual turnover of less than $1.78 million;
- You have net assets of no more than $6 million. This figure excludes personal use assets such as your home, to the extent that the asset is used to produce income.

Assuming you meet the eligibility rules, you may be eligible to use the following exemptions. Please note that a number of exemptions, like the 15-year exemption, can work independently, whereas some can be used in combination with other exemptions. The time of ownership, and the time that the asset has been used as an active asset within a small business, has broad bearing on which exemption you can use.

15-year exemption

This exemption is the gold standard when reducing your potential capital gains liabilities. If your business has continuously owned an active asset for 15 years, and you're aged 55 or over and are retiring or permanently incapacitated, you won't have an assessable capital gain.

50% active asset reduction

This concession allows you to reduce the capital gain on an active asset by 50%. Please note that this 50% reduction is in addition to the 50% CGT discount if you've owned the asset for 12 months or more.

$500k Retirement exemption

Capital gains from the sale of active assets are exempt up to a lifetime limit of $500,000. If you're under 55, the exempt amount must be paid into a complying super fund or a retirement savings account.

Rollover

If you sell an active asset, you can defer all or part of a capital gain for two years, or longer if you acquire a replacement asset. This exemption only defers the potential capital gain and is often suitable for younger small business owners who are under age 55 and well below retirement age.

I have merely provided a brief overview of these complex rules. Many accountants specialise and solely work in this area. Again, I would recommend seeking specialist accounting advice to ensure you only pay as much tax as legally required under the law.

THE SMALL BUSINESS CAPITAL GAIN CONCESSIONS AND SUPERANNUATION

Small business owners, like farmers, often have to reinvest profits back into their business, continually, over many years. This reinvestment is often at the expense of investing in other off-farm or retirement assets like superannuation.

If you are eligible to use the small business CGT concessions, the $500k retirement exemption and the 15-year exemption in particular, provide generous superannuation contribution options. The contribution options do not count toward other superannuation contribution limits, such as the concessional and non-concessional caps. This provides an opportunity to bolster your superannuation fund by up to $1.65 million (2022/23 financial year) when using the 15-year exemption in one contribution.

Therefore, small business CGT concessions can assist you to save significant capital gains tax when you sell your farm. They can also help you save income tax every year!

5. WHAT DO I DO WITH THE SALE PROCEEDS?

Investing is complex. Building a sound understanding and getting advice can help give you the knowledge you need to make informed decisions. Often, it's not the selling of the farm that's the scariest part of the process, it's the uncertainty of not knowing how to invest the funds afterwards. After all, you only get to sell the farm once, so you must get it right the first time.

INVESTING, IT'S ALL ABOUT ASSET ALLOCATION

Investment returns are dictated by how you choose to invest. The more conservatively you invest, think cash and term deposits, the lower the performance. The more investments within the share markets, think businesses, the higher the return. Our investment time frame is key to guide us how we should invest. If we are investing for our retirement at age 65, we assume that you are a 30-year investor, assuming that one individual of a couple, or possibly both, will live through to their nineties.

The critical question for us to ask is, "what do we consider to be a long-term investment?" The answer to this question is 5 to 10 years plus. If we take a long-term approach, it means that we can ride volatile share markets and never have to sell at an inappropriate time. To receive a superior return to that of cash or term deposits, we need to accept short-term volatility. Thankfully, investing over the long-term takes the risk out of being affected by short-term fluctuations.

Financial literacy is a vital area of financial advice. This is where, as a financial adviser, I spend a large amount of my client time. We have built up several educational resources that we recommend people watch to build their knowledge and make informed decisions. These resources are in the following links. They are all free.

MUST WATCH EDUCATIONAL RESOURCES

Peter Thornhill

This online course is the gold standard when it comes to an understanding of the right asset class to invest in for the long term. By no means am I suggesting investing in one asset class only. I am a firm believer in diversification to reduce risk and to help us sleep at night, rather than worrying about our investments. However, if you want to invest to achieve the best return over the next 10, 20, and 30 years, then Peter Thornhill's knowledge is a must-watch. You can access this free course by visiting https://www.consortiumpw.com.au/courses/investing-in-the-right-asset-class.

Rob Goudie

As a financial adviser for the past 25 years and a keen investor for ten years prior, over this time I've developed preferences that have shaped the investor I am today. In this video series, I go through some of the issues that I have encountered within the wealth management and financial planning industry. All problems have provided learnings that have been the basis for how I invest for my family and clients. To access this free resource, please visit https://www.consortiumpw.com.au/available-courses.

YOUR INVESTMENT TIME FRAME IS KEY

WHAT STRUCTURE IS BEST FOR YOU?

6. WHAT FUTURE INVESTMENT STRUCTURE SHOULD YOU CHOOSE?

The investment structure you choose to invest in will have a significant impact on the amount of tax you pay.

SUPERANNUATION

Superannuation is ideal for those who have met their preservation age and are retiring from the workforce. Individuals who are over the age of 60 and retired, can have up to $1.9 million tax-free. I consider this tax-free amount to be the gold standard and should be maximised where possible. The small business CGT concessions provide scope to contribute to superannuation beyond the annual concessional and non-concessional contributions.

WHEN CAN I ACCESS MY SUPER?

When you turn 60, even if still working or once you reach preservation age (60 depending on the date of birth) and have retired, you have full access to your superannuation.

You can start a transition to retirement (TTR) income stream when you are aged 60 while you're still working. However, there are limitations on how much you can withdraw while you are working and using a TTR strategy. This may be the case where you continue to retain your farmer status to spread out your farming income over multiple years.

DISCRETIONARY FAMILY TRUSTS

Discretionary family trusts can provide the benefits to distribute income and capital gains to many beneficiaries. This ensures that no one individual receives all the income and or capital gains in their name, pushing their taxable income into a higher marginal tax rate.

INDIVIDUAL OR JOINT OWNERSHIP

For simplicity, investors may choose to invest in either their individual or joint names, however this provides little flexibility regarding future tax outcomes or estate planning.

Of course, the amount to be invested has an extensive bearing on the structure or structures you choose or are advised to establish by your professional adviser.

7. IS A CENTRELINK AGE PENSION PART OF THE EQUATION?

Under current Centrelink rules, there are limits on the amount of assets and income you can have to be eligible to receive the Age Pension. Both tests have upper and lower thresholds that dictate a pensioner's pension payment.

In most cases, when farmers are selling their farms, the value of the property is far exceeding these thresholds. In this case, you will not be eligible. When you consider that less than 300 acres of farming land valued at $3,000 per acre is well over the upper threshold of $1,045,500 for a homeowner couple, no Age Pension would be payable. Either way, it's worth understanding the numbers to know if you may be eligible.

WHAT IS INCLUDED IN THE ASSETS TEST

As a rule, everything except our principle residence (our home) is included in the assets test. For a couple that own their own home, once they have over $1,045,500 in assets they will be excluded from receiving any Age Pension payments. The numbers are reduced for singles, where a single homeowner can have $695,500 before being cut off from the Age Pension. Please note that these figures are indexed and are current as of September 2024.

THE INCOME TEST

When it comes to the Income and Asset tests, Centrelink will apply the test that will provide you with the lowest pension payment. Again, like the assets test, the income test thresholds determine the pension payment.

THE COMMONWEALTH SENIORS HEALTH CARE CARD (CSHCC)

Those that may not be eligible for an Age Pension, but are under certain taxable income levels, may be eligible to receive a CSHCC. While this card does not provide all the benefits of an Age Pensioner Concession Card, it does offer several benefits. These include access to the Pharmaceutical Benefits Scheme (PBS), which vastly reduces the costs of many prescriptions.

ITS WORTH UNDERSTANDING THE NUMBERS

8. ESTATE PLANNING

Don't have a Will? You're in good company. Less than half of Australian adults do. Even then, many Wills are out of date or invalid. The upshot is that hard-earned wealth may be fought over by family or distributed by government formula, and not end up with the preferred beneficiaries.

It's also important to remember that Wills are just one component of estate planning. Here's a quick checklist to help you get your estate planning on the right track.

- If you don't have a Will, make one. Consult a specialist Estate Planning lawyer.
- If you do have a Will, ensure it is up to date and reflects your current wishes. Is your executor willing to take on the role and likely to outlive you?
- Have enduring and medical powers of attorney drawn up so someone you trust can act on your behalf and make decisions if you are no longer able to do so.

ADVANCED CARE DIRECTIVES

An Advance Care Directive is often referred to as a living will. The directive is a formalised version of your advance care plan, which outlines your preferences for your future care. Having an Advance Care Directive means you can also formally appoint a decision-maker when you can no longer make decisions yourself.

Advance Care Directives differ between the states, and some state and territory governments have specific forms that you can use. If you would like to know more about Advance Care Directives in your state, go to the Advance Care Planning Australia website by visiting https://www.advancecareplanning.org.au.

TESTAMENTARY TRUSTS

A Testamentary Trust can help make sure your beneficiaries have the best investment structure when your assets pass to the next generation. The benefits of the Testamentary Trust include the ability to distribute income to minors under the age of 18 at adult tax rates. This works perfectly with your grand or great-grandchildren who are under the age of 18. They also provide substantial asset protection in the event of personal bankruptcy or litigation. Both are highly unlikely events, but if either occurs, the assets held within the Testamentary Trusts are protected from litigation and bankruptcy.

SUPERANNUATION BINDING DEATH BENEFIT NOMINATIONS

While superannuation will often be one of our most significant investments, these assets are not covered by your Will. The surest way to direct payment of your superannuation death benefit is by making a binding death benefit nomination. The nominated beneficiaries must be dependants' – a spouse, de-facto spouse, child, or financial dependant – or a legal personal representative (i.e. the executor or administrator of a deceased estate).

If the nomination has been properly signed and witnessed and is still current at the date of death, then the trustees of the superannuation fund must pay the death benefit to the nominated beneficiaries.

Unlike Wills, valid, binding superannuation nominations are unlikely to be overturned by a court, so they provide great certainty. It is up to the trustees of each superannuation fund to decide whether to allow binding nominations, so they aren't available to everyone.

Although some funds offer non-lapsing binding death benefit nominations, most are only valid for three years, so it's important to check yours and ensure it remains up-to-date.

LIFE'S ULTIMATE GOAL

9. THE PSYCHOLOGICAL SIDE OF RETIREMENT

We all have a perception that striving for retirement is one of life's ultimate goals, yet when so many people get there, it often doesn't go as planned. Having a plan for what we do after we retire that keeps us engaged and active physically and mentally is vital. Everyone, regardless of age, requires purpose; the reason we jump out of bed each day.

YOU MUST KEEP BUSY

Hopefully when retiring, you are retiring from something that you enjoyed and was rewarding financially and personally. I personally already know that retiring "cold turkey" would be a nightmare. I'm passionate about my job, and not having it in my life would leave a huge hole that would need to be filled with something else enjoyable.

I've seen several clients that have trouble with this transition from working life to retirement. Eventually, they find part-time work or volunteer work that gives them the purpose in life needed for a well-balanced retirement. Of course, the family will always play a role in retirement. These days, young families lead busy lives and won't always be on deck for action.

DON'T LEAVE THE FUN STUFF FOR LATER!

Australians are a courageous lot, and we live in an age of endless opportunities to explore the world. When talking to clients regarding an impending retirement, I always encourage them to go hard in the first half of retirement. That is doing the things that you planned to do while you are young and fit enough to do so. Once we reach 80 and up, you may not have the physical ability or the mental want to complete your bucket list, so get active from the start.

SUMMARY

I do not doubt that some of your heads will be spinning with so many complex issues to consider. But like any complex transition, many of these issues can be broken down into smaller chunks and completed in an appropriate order.

Of all the topics, I have an order that you could consider using. This order can be found on the contents page. Within each topic, there may be multiple steps and decisions that will need to be made as you move through the process.

Lastly, seek the advice of your trusted professional team. Your accounting, legal, and financial advice professionals will need to work together as you go through the process.

WANT TO KNOW MORE?

To find out how we can help you begin the planning process, and check out all of our free educational resources, visit: https://www.consortiumpw.com.au/elearning/.

If you're keen to learn more about the way we invest, check out our YouTube channel by visiting https://www.youtube.com/@ConsortiumPW.

To check out what our clients think of us, please visit https://www.consortiumpw.com.au/testimonial/.

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