



Farm Management Team Q & A's

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(B) Author's Note: These fact sheets are a result of questions posed to me and answered in a national publication over the years.

Mom's Attorney says we should pay more rent.

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Dad passed away recently, leaving his assets to Mom. My brother and I farmed with our parents. We had understandings, but nothing on paper. Mom's attorney insists that she put it in writing, and make us pay more rent on land she now owns. Can she do this legally if she wants?

It's great to be able to have things open enough not to have put agreements on paper but, misunderstandings, accidents and deaths do occur. Without that protection of formal written agreements, it is difficult to prove that an agreement was reached. We end up relying on interpretations of what was said and not said. The attorney is right, put it in writing and it protects you, your brother, your Mom and anyone else who is (and even is not) involved.

Parents are great ones NOT to charge their offspring enough for the property (although I've seen it just the opposite as well) giving the next generation a better chance to make a living on the land. Unfortunately this generosity can leave the parents without the ability to pay for many necessities that they have in older stages of life. This is in addition to some extras and the nice things they have worked so hard for. Thus, the best bet is to make it a business proposition between all parties and carry it forward. Should the parents then decide to forgive the payment at the end of the year, so be it. This makes it formal and it will pass the IRS eyes as well as the eyes of the family.

Generally speaking, land rents should change every year by the COLA, and be reviewed every 3-5 years, just as most of the rents in office buildings do. However, realistically we adjust the cropland rent when we can and review the situation every 3-5 years. Determining rental rates depend on the demand, the quality, the location, the quantity and use. However, use the DIRT 5 as a beginning point: IE: Depreciation (on buildings), Interest (on investment), Repair, Taxes and Insurance. Then modify according to demand, quality, location, quantity and use.

While modifying because it is family is often a good thing, IRS has established some special rules recognizing the family transfers, material participation, and family agreements. Be sure that your Mom's accountant, and your accountant explain to each of you the tax implications of any such agreement before settling on the final agreement.