By Dick Wittman

Thinking the unthinkable

The time to plan for death or disability is before it happens

The death or disability of a family member can have widespread consequences for a farm business. Twenty years ago, I found out the hard way.

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My brother, cousin and I were methodically making contract payments to our retired parents and off-farm cousins. Farming prospects looked great, and we were ready to conquer the world. Then in June 1987, disaster struck close to home. My brother — not to mention partner and lifetime best friend — called during haying season and said, "Dick, my back hurts so bad I can't get off the floor."

What I first thought was just a typical sore farmer's back turned out to be a rare version of multiple sclerosis. In six months he was partially paralyzed, seriously disabled and riding a wheelchair instead of his horse. He took over a lot of my computer chores until his eyesight began failing. Seven years after that heart-stopping phone call we were attending his funeral.

FINDING THE ANSWERS

Imagine the questions that come to mind. First, put yourself in his family's shoes. How will he provide for his family if he can't work? What happens to the on-farm residence his family is living in? What about the utilities, phone, insurance and other benefits the farm provided as part of his compensation package? Will all this be cut off, along with an eviction notice?

Now put on the surviving partner's hat. If he can't work, does the farm have any obligation to continue providing compensation and benefits? Who will take over his workload and decision-making? Can or will he want to continue making payments on his share of the farm purchase? If not, will the remaining partners be able to pull the wagon with only two horses still hitched to the tongue? What if we need to buy his family out, too, in addition to servicing contracts to off-farm debtors? Will our banker still finance us if we convert a third of our equity to debt?

If you wait until the crisis happens and try to answer these questions, there are no right answers! Whatever you do, it's not enough, too much, not affordable, emotionally driven, and probably illegal or nondeductible.

Fortunately, we had a professional team of advisers — our attorney, accountant, insurance agent and banker — who made sure we addressed these questions in our transition plan.

GOLDEN RULE

As we found out, having a business benefit continuation policy is a critical issue that should be included in every farm's plans. The policy is not difficult to define when people are healthy and getting along. And it can be invaluable in removing uncertainty for partners and their families. No spouse or child should have to worry about these questions after a death or disability.

Here are questions the policy should address:

- What situations will trigger it?
- What benefits will be continued and for how long?
- How will the employee-partner and the business share the responsibility for replacing or funding these benefits?

This is an issue that should be considered in conjunction with, not independent of, your life and disability insurance coverage, buyout agreements and other related issues. But beware: It is dangerous to put this policy in place *after* the crisis occurs. If the victim is an "employee" of your business, IRS can construe the continued benefits as a nondeductible dividend instead of contractual compensation.

Deciding the right thing to do should not be difficult. You need only ask yourself, "How would I want my family to be treated if I were not here?" What is right for your family should also be right for your business partners' families if a tragedy occurs. ff

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