2024
Advanced
Sales Forum

Navigating the Changing Tides

Cultivating Estate Planning for Farmers & Ranchers

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Ashley’s Farming Heritage

The Sharp Farm – 138 Years

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Matt & Karen’s Farming Heritage

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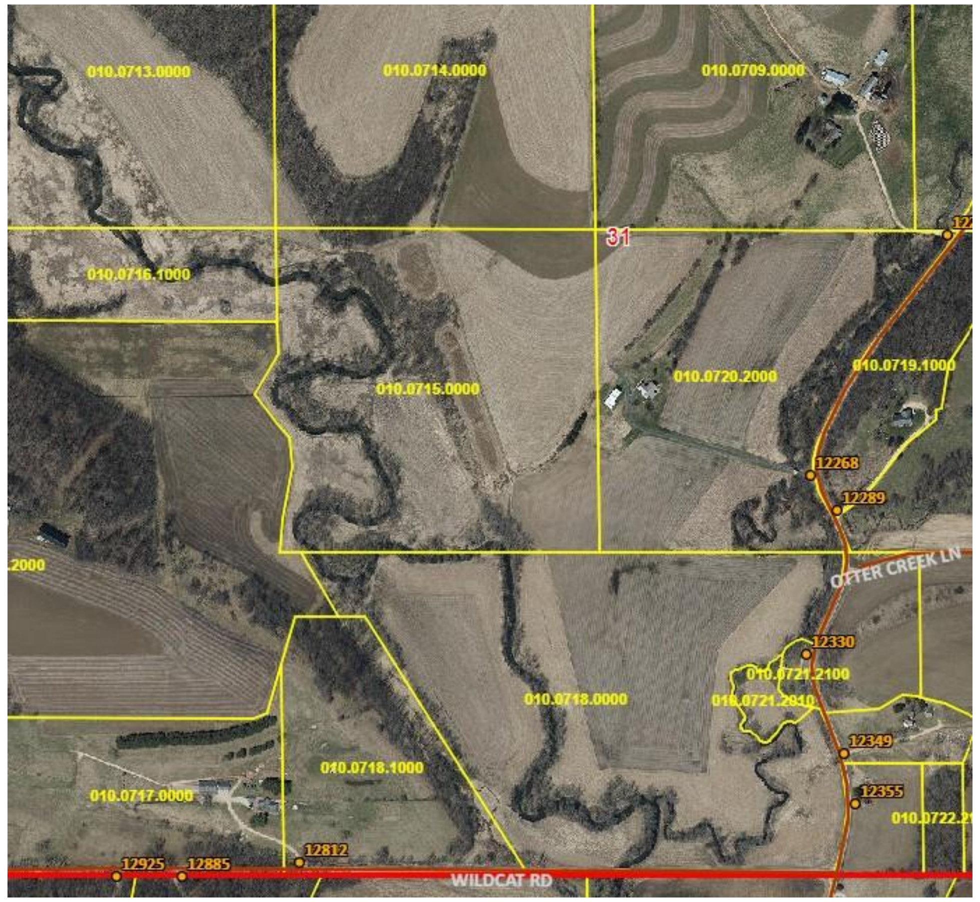
Matt & Karen’s Farming Heritage

16 Great Grandparents – ALL WI & MN Farmers

7 of 8 Grandparents – Cheesemakers, Farmers



Parents –
2 Own Farm
2 Family Farmers

Johnston Farm – 52 years
Prechel Farm – 100 years

M & K –
Just moved to the Farm!

Overview

- Estate Planning for Farmers & Ranchers
- 2025 TCJA Sunset Impact on Farmers & Ranchers
- Business Succession Planning for Farmers & Ranchers

Estate Planning for Farmers & Ranchers

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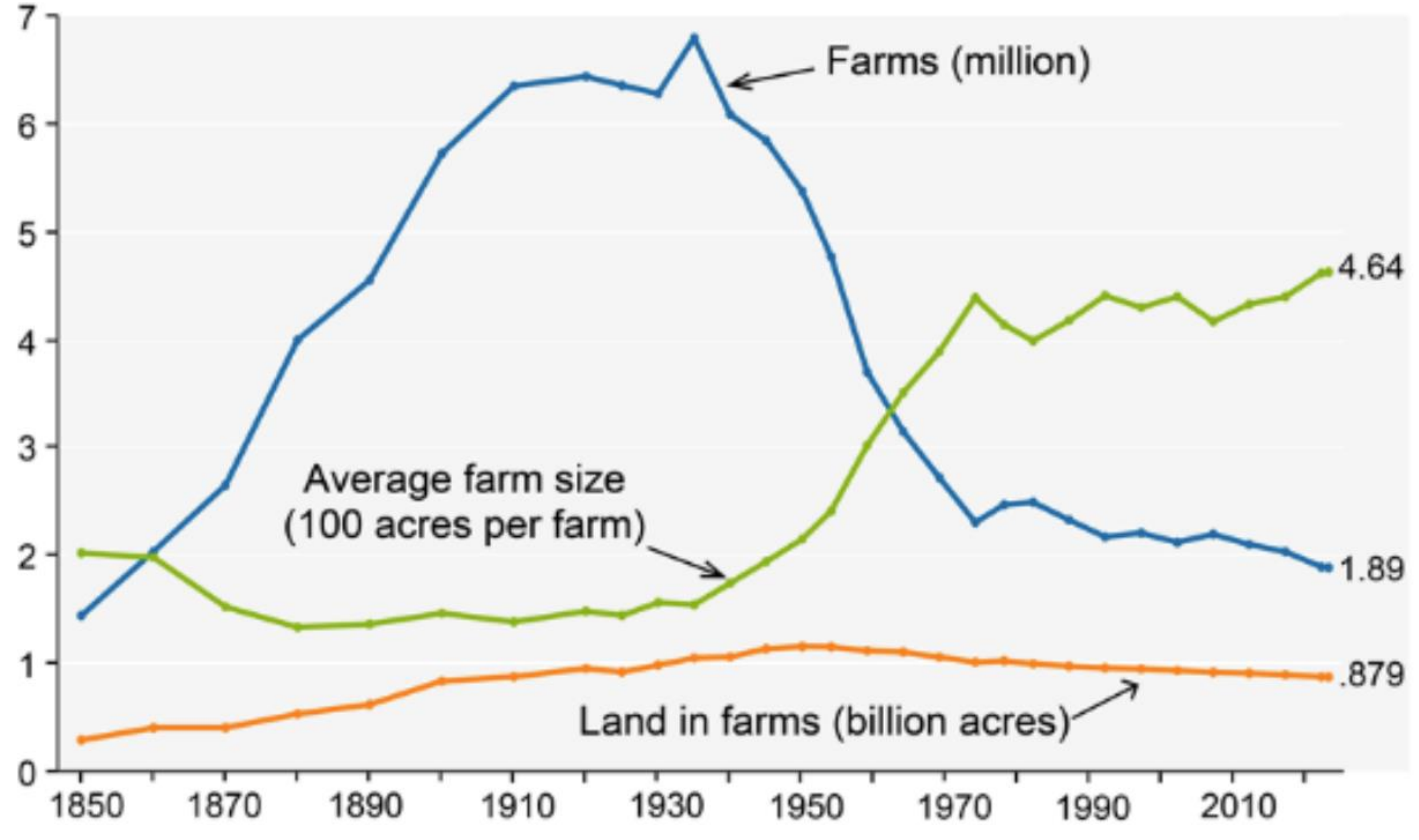
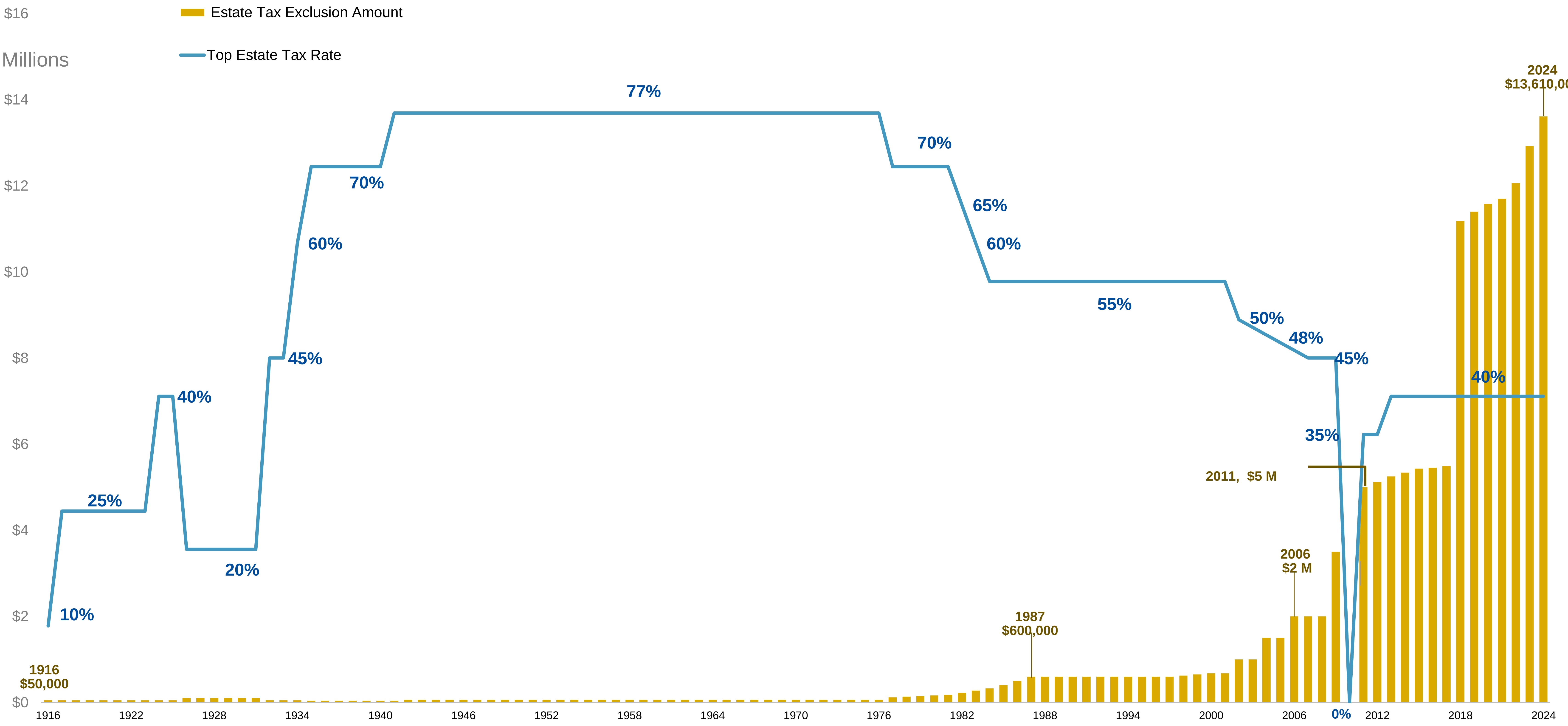
Less Farms but Bigger Operations



Source: USDA, Economic Research Service using data from USDA, National Agricultural Statistics Service, Census of Agriculture (through 2022) and *Farms and Land in Farms: 2023 Summary* (February 2024).

Estate Tax History (1916 – 2024)



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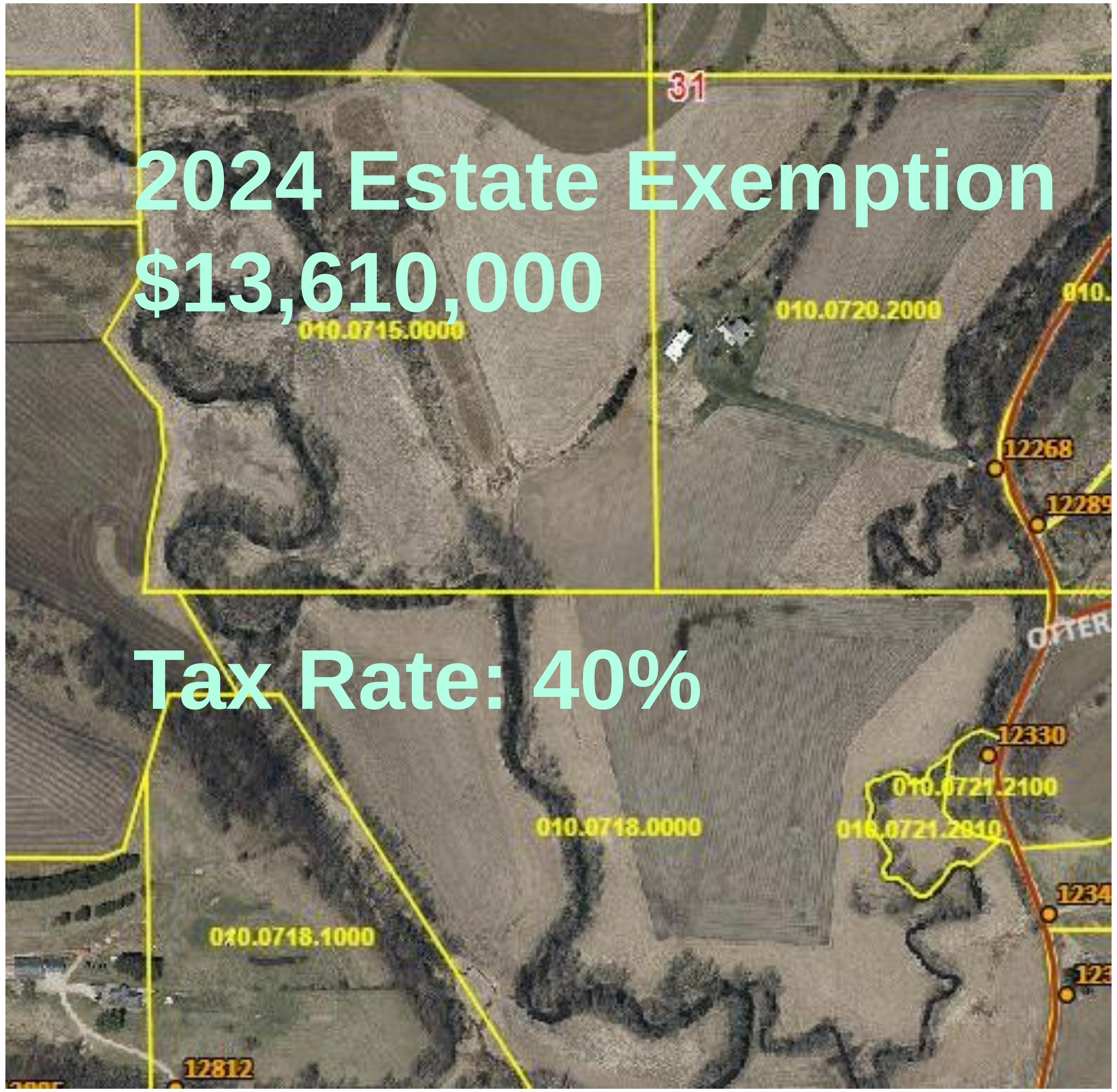
Estate Tax: 1937 vs 2024 (Johnston Farm aerial photos)



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Unique and Distinct from Traditional Estate Planning

Traditional

- Treating children equally is the norm.
- Assets are largely financial (retirement accounts, bank accounts, etc.) and usually not much real estate.
- Asset values are fairly predictable and consistent.

Farmers/Ranchers

- Treating farming and non –farming children equally in uncommon.
- Most framers have large estates but very little financial assets. **Dirt Rich and Cash Poor.**
- Asset values fluctuate dramatically.

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How do we plan?

Landscape for Planning

Concentrated asset classification.	Fluctuating assets.	Low profitability of asset classification. Rate of Return.	Retention of assets is necessary for continuation of the enterprise.	Fewer retirement or financial assets.	Division between heir – farming versus non-farming.	Farming heirs often have not been paid wages, for not have significant assets in their names, and have no fallback plan.	Non-farming heirs often have a sentimental attachment to the farm and may have no

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Assets v. Income

Planning for equality of assets is not usually a priority for farmers. Nor should it be if the farm is going to continue to be a family farm.

In a research study conducted by Oklahoma State University, several transition strategies were assessed for their probability of success. The strategy with the lowest level of success was dividing assets equally among all heirs. This strategy was determined to be so ineffective that it resulted in a 99% probability of failure if all assets are divided equally among all heirs.

Failure = no longer a family farm

Valuation of Farm Assets

If farming heir must pay non-farming heirs to keep farm operational, how should we value it?

Fair market value = open market, third parties, no family values and not family oriented.

Family farm value = respect legacy of farm, generational privileges, prioritizes continuation of farm.

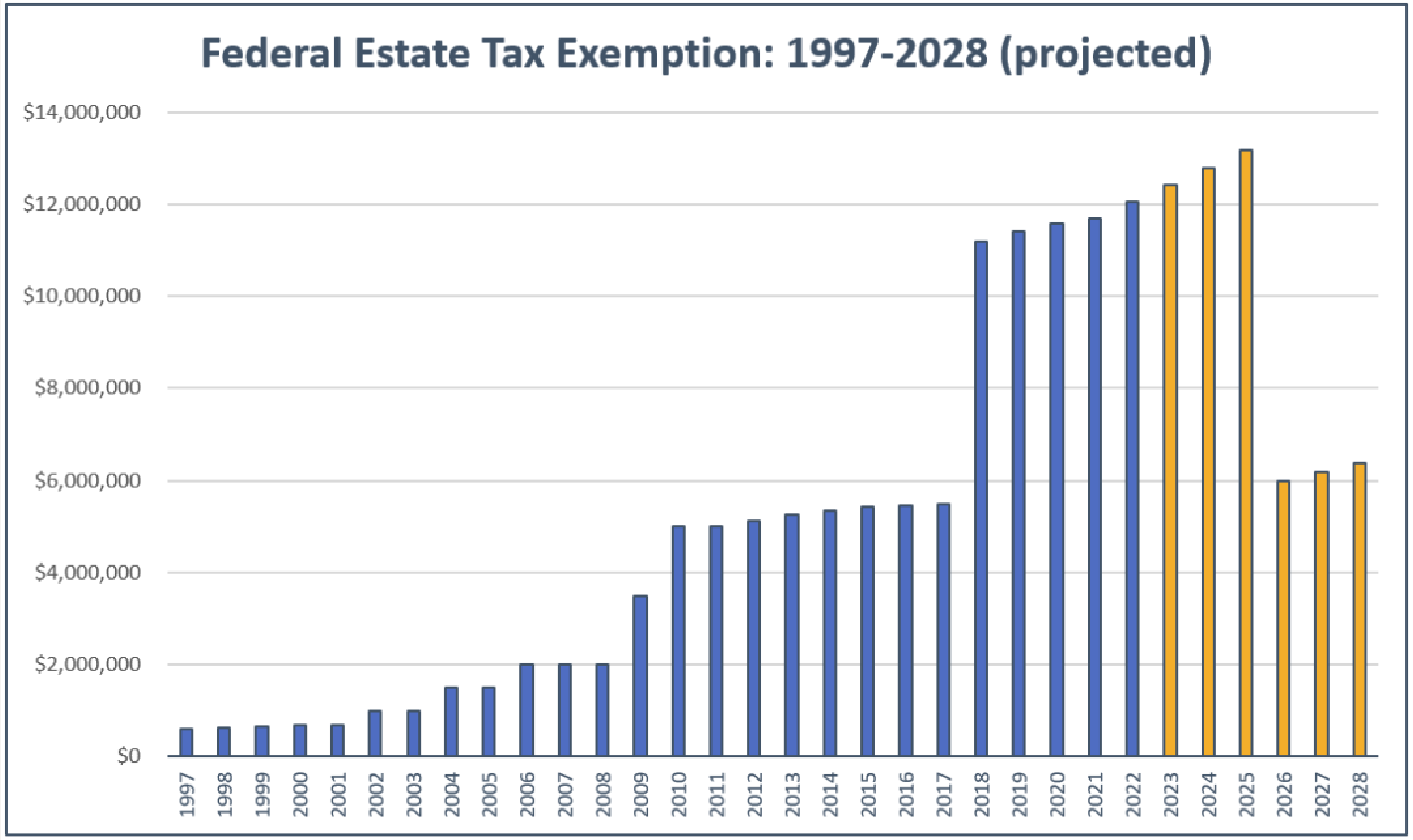
Might be different for each operation and farmer personality. Some might be all and none. Others might be finding a better breaking point that gives farm better likelihood of continuing.

Why does this matter?

- **Life insurance provides liquidity upon death for equalization and estate tax.**
- Without a properly drafted estate plan, many farms will fail.
- Higher land prices mean farming families are at greater risk of estate tax exposure.
- An estate tax is the tax assessed at the time of a person’s death and is based on the total value of a person’s gross estate, less any liabilities
  - For families with their largest asset being land, liquidity to pay estate tax becomes a big concern
- A properly drafted estate plan can help us both protect the family farm and mitigate estate tax risk.

Federal Estate Tax Considerations

- The federal unified gift and estate tax exemption is currently $13.61M / person for decedents dying in 2024 – can use during life or after death (or combination)
  - $18k/year gift tax exclusion per donee – does not count against lifetime exclusion amount
  - Married couples can “split” gifts to give up to $36k/year without paying gift tax
- The exemption adjusts for inflation each year



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Federal Estate Tax Considerations

- With the current exemption at $13.61M/person, many people won't have to worry about federal estate tax
  - Married couples can elect portability and exclude over $27M in assets before paying federal estate tax
- The current exemption is set to sunset on December 31, 2025, after which time the exemption will revert back $5.6 million per individual, adjusted for inflation from 2017 – federal estate tax may be a bigger issue after the sunset if Congress doesn't act
- Assets exceeding the applicable exemption are taxed at a rate of 40%

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State Estate Tax Considerations

- In addition to the federal estate tax, twelve states and the District of Columbia impose their own estate taxes and six states impose an inheritance tax.
  - Estate Tax: Connecticut, Hawaii, Illinois, Maine, Massachusetts, Minnesota, New York, Oregon, Rhode Island, Vermont, Washington, District of Columbia
  - Inheritance Tax: Iowa, Kentucky, Nebraska, New Jersey, Pennsylvania
  - Both Estate and Inheritance Tax: Maryland
- Seeing an increasing number of proposals in both Senate and eastern state legislators of a wealth tax – tax on unrealized gains on unsold property. None passed yet.
  - Eliminating a stepped-up basis could be devastating for farming families.

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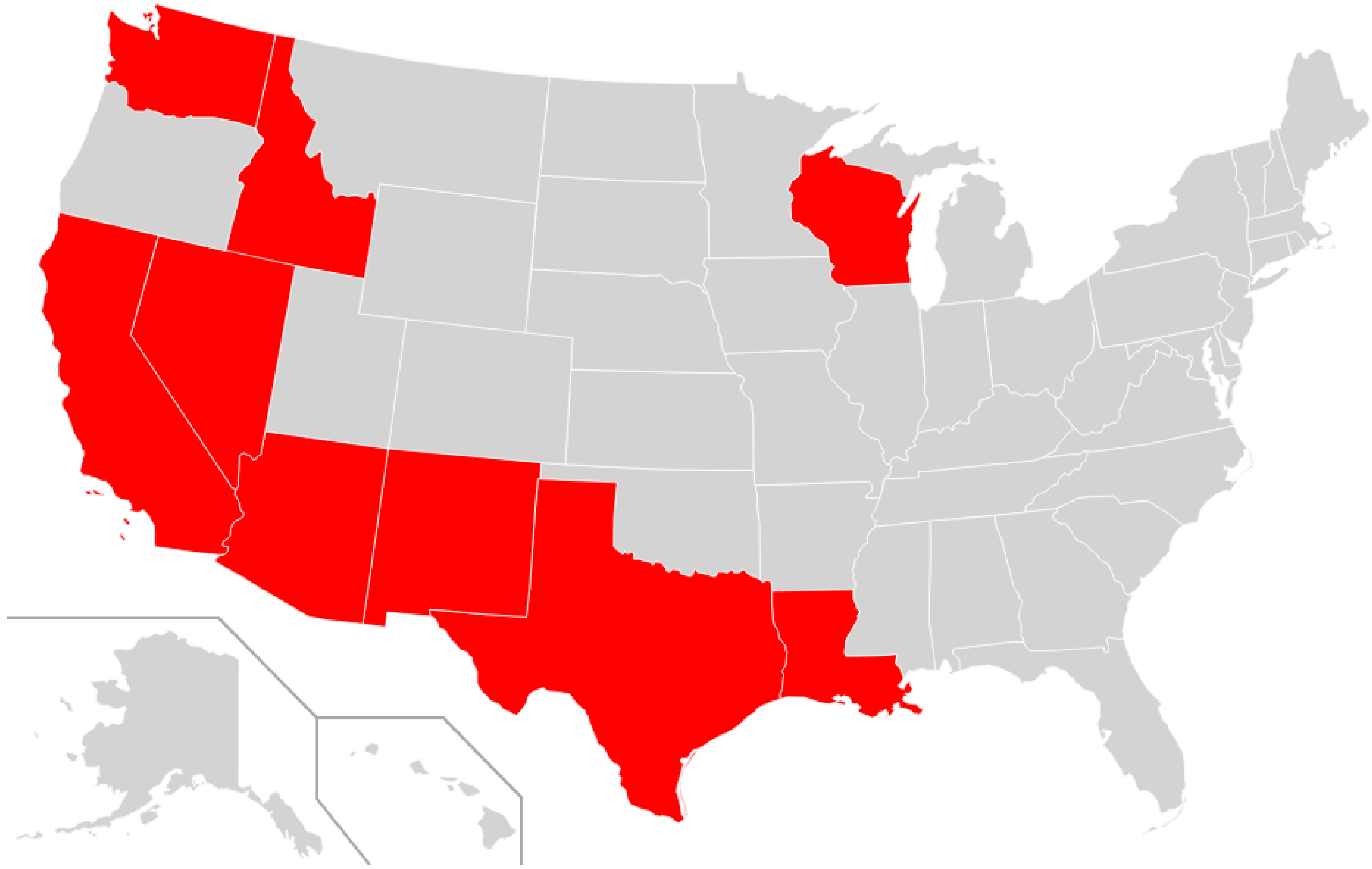
Special Considerations for Community Property States

California, Nevada, Arizona, Idaho, Washington, Louisiana, New Mexico, Texas, and Wisconsin

- Interest of an owner most often belongs to the marital community.
- Both the owner and his/her spouse have an equal stake in the interest—even in case of divorce.
- Unless otherwise stipulated in a legally binding document, each spouse has a claim against all of the marriage's community property when the court divides the marital assets.



Special consideration given to succession plan to avoid giving third-party spouses a say in the management of the farm.

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Farmland Special Use Valuation 2032A

- The primary purpose of §2032A is to help family farms and businesses pass from generation to generation.
- Valuation adjustment for land actually used for farming before and after decedent's death.
- Must meet ownership and use requirements.
- 10-Year Recapture Period for land that fails to continue to meet requirements after the election is used.

2025 TCJA Sunset Impact on Farmers & Ranchers

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2025 Sunset Impact on Farmers

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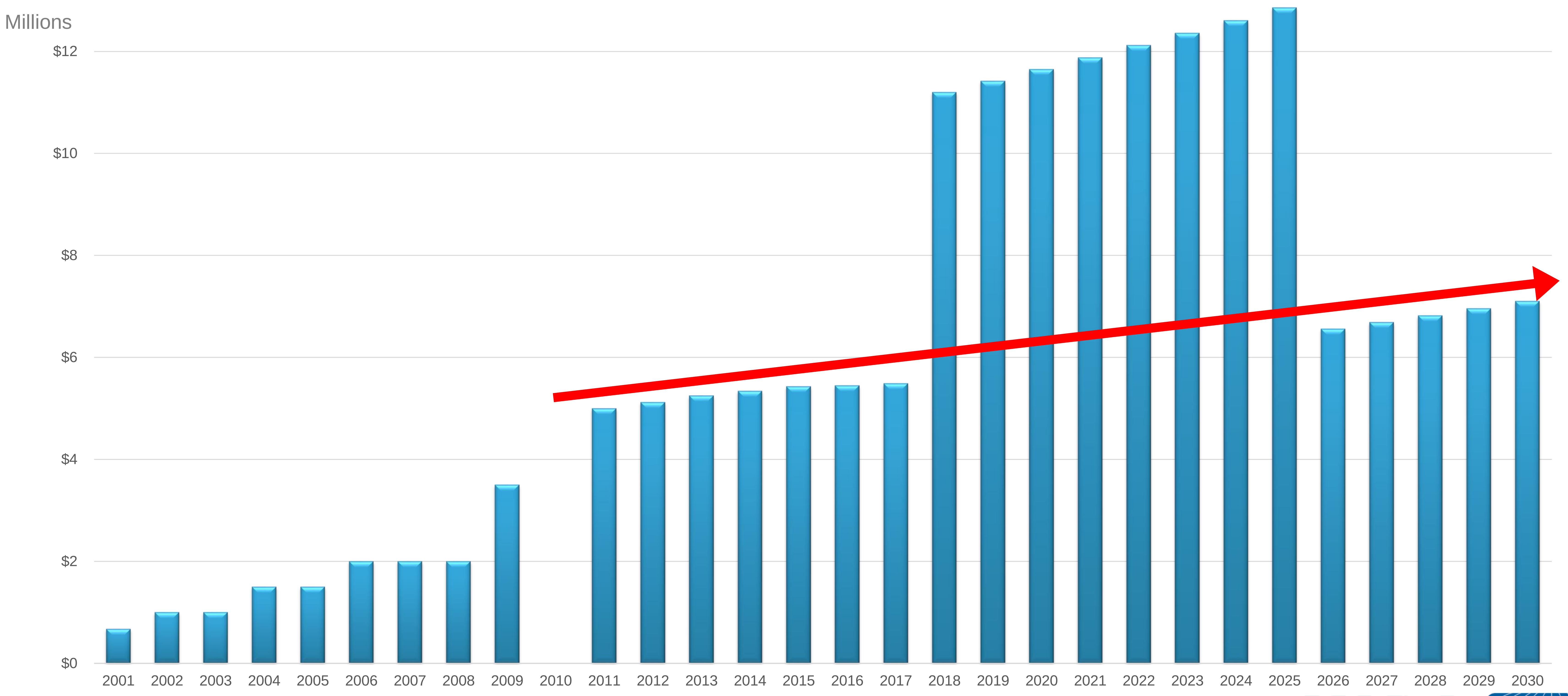
Estate & GST Tax Exemption – Past & Projected



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2025 Sunset Impact on Farmers – Estate Tax

- Estate tax exemption cut in half in 2026
  - **3X** increase in # of farm estates owing estate tax
  - < 2% of small & medium farms will owe estate tax
  - **7.3% of large farms & 8.5% of very large farms will owe estate tax after the TCJA Sunset**

- **2X** increase in estate taxes owed (**$647M)** by farmers

Tax Burden in 2024

Estate	$ 40,000,000
Exemptions	- 27,220,000
Net Taxable	$ 12,780,000
40% FET	- 5,112,000

18% LOST

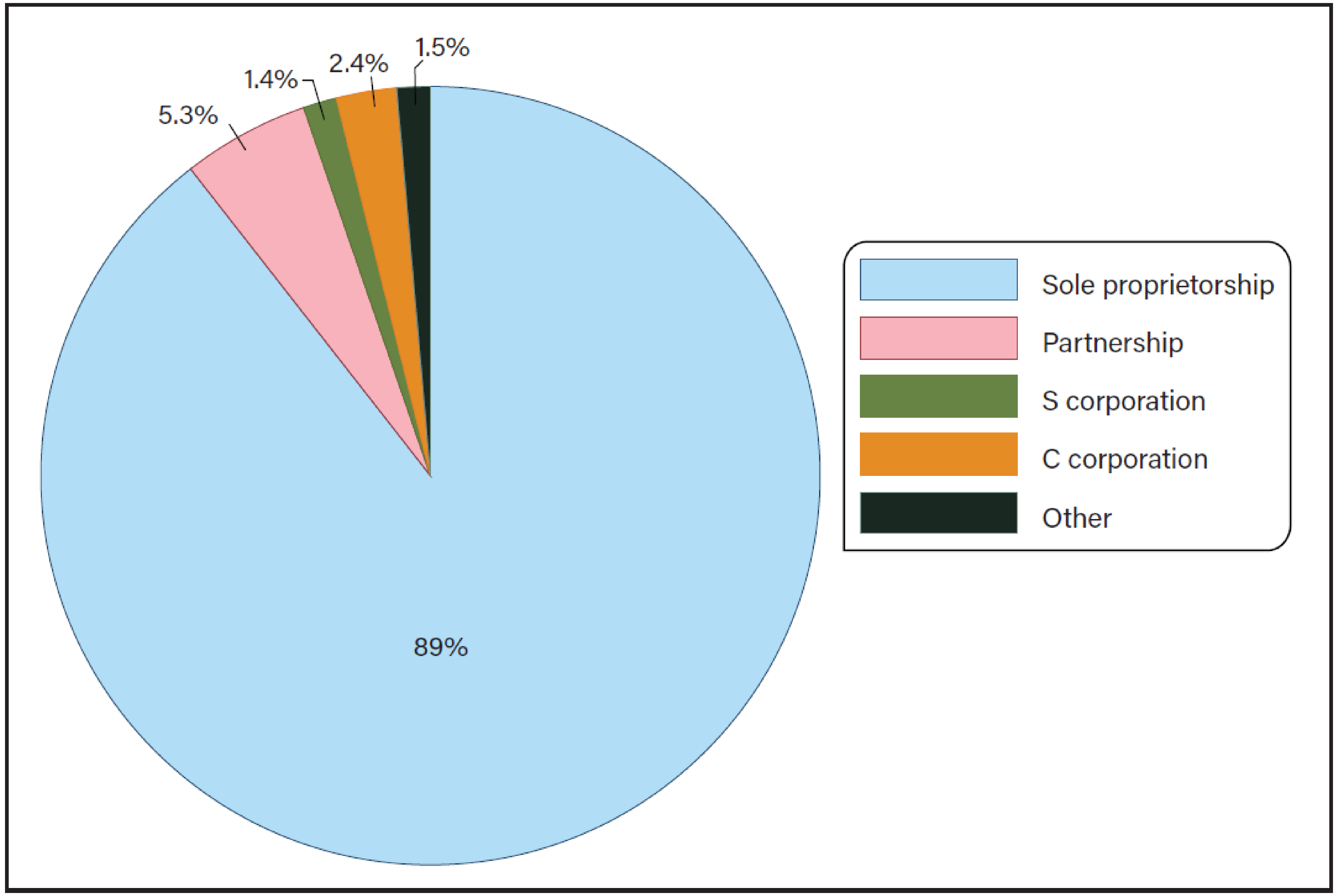
Tax Burden in 2026

Estate	$ 40,000,000
Exemptions	- 14,000,000
Net Taxable	$ 26,000,000
40% FET	- 10,400,000

30% LOST

Income Tax - Distribution of Farms by Entity Type

Distribution of farms by legal tax status



Note: S corporations and C corporations are owned by shareholders. Subchapter C corporations are taxed on their income at the corporate level and again upon distribution to the shareholders while an S-corporation's income is passed through directly to the shareholders and not subjected to Federal income tax at the corporate level.

Source: USDA, Economic Research Service and USDA, National Agricultural Statistics Service, 2018–2021 Agricultural Resource Management Survey.

96.1% of Farms Pay Their Farm Income at Individual Tax Rates

2025 Sunset Impact on Farmers – Income Tax

- Income Tax impact on sunset of 2017 TCJA and 2021 ARPA

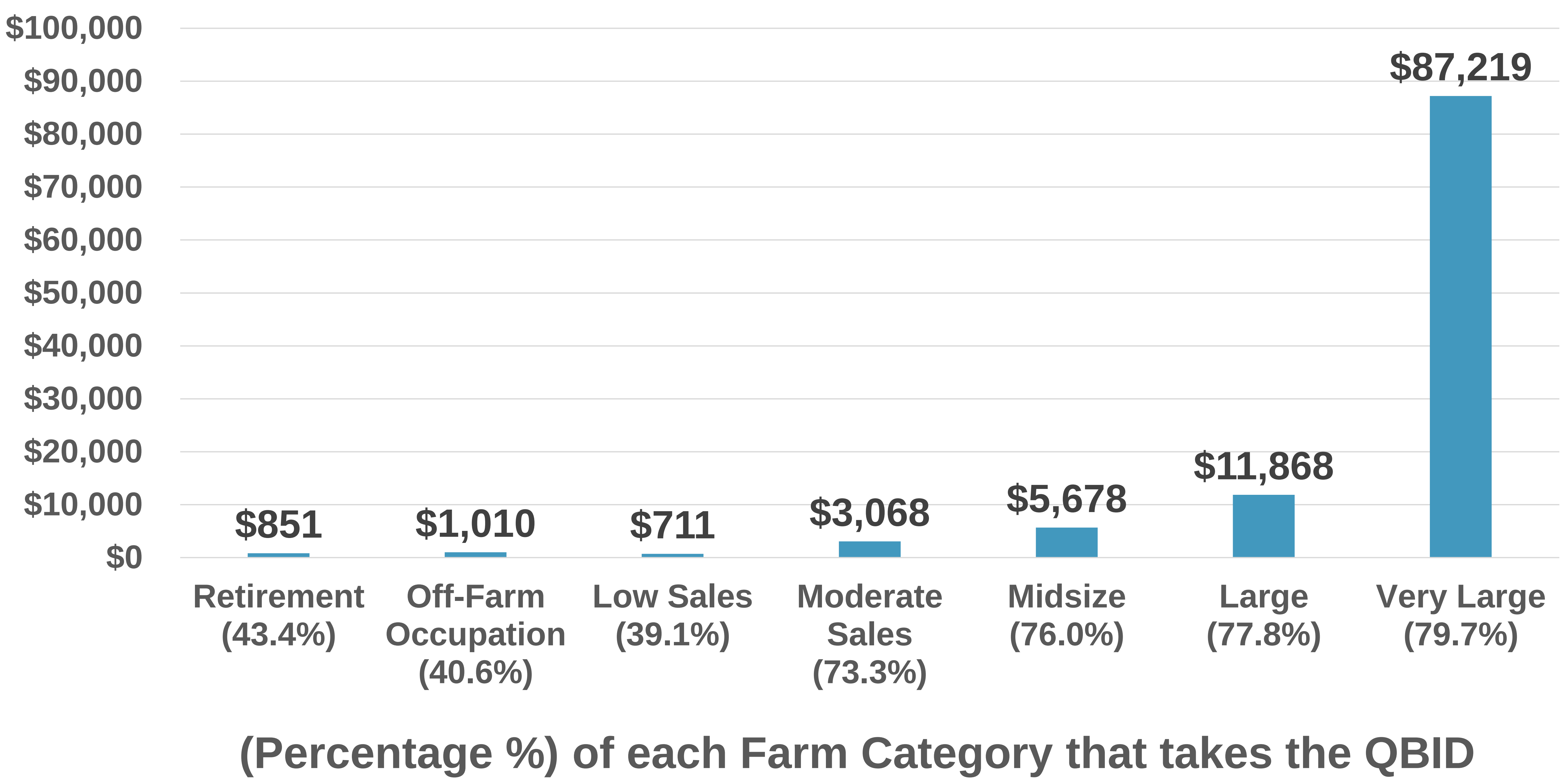
  - **$8.9B** annual increase in total farmer households’ income tax

  - **$2,464** avg tax increase on 45% of farm households impacted by the elimination of the §199A 20% QBI deduction

  - Percentage of farm households impacted by **AMT increases from 0.1% to 4.7%** due to sunset

Source: McDonald, T. M., & Durst, R. (2024). *An analysis of the effect of sunsetting tax provisions for family farm households* (Report No. ERR-328). U.S. Department of Agriculture, Economic Research Service.

Average Increase in Individual Taxes Due to Losing QBID



Source: McDonald, T. M., & Durst, R. (2024). *An analysis of the effect of sunsetting tax provisions for family farm households* (Report No. ERR-328). U.S. Department of Agriculture, Economic Research Service.

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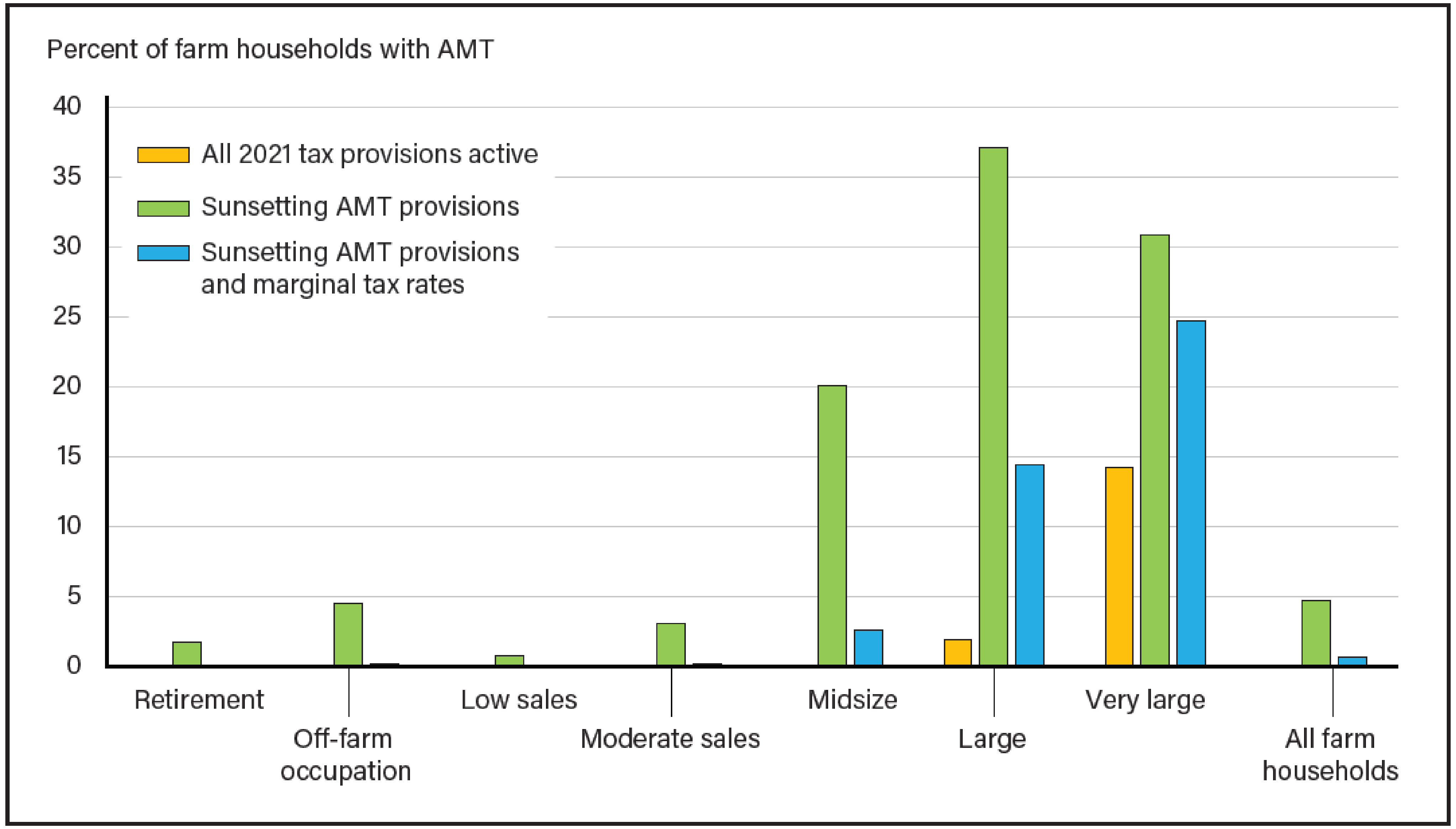
AMT Impact on Farmers of Sunset

Percent of farm households subject to the alternative minimum tax (AMT) if AMT provisions and marginal tax rates sunset



AMT = alternative minimum tax.

Note: All data are adjusted to 2021 values. The baseline includes all tax provisions that were active in 2021. Retirement farms have gross cash farm income (GFCI) less than $350,000 and principal operators (POs) who report they are retired. Off-farm occupation farms have GFCI less than $350,000 and whose POs report a primary occupation other than farming. All remaining farm types have POs whose primary occupation is farming. Low-sales farms have GFCI less than $150,000. Moderate-sales farms have GFCI between $150,000 and $349,000. Midsize farms have GFCI between $350,000 and $999,999. Large family farms have GFCI between $1,000,000 and $4,999,999. Very large family farms have GFCI greater than $5,000,000.

Source: USDA, Economic Research Service and USDA, National Agricultural Statistics Service, 2018–2021 Agricultural Resource Management Survey.

2025 Sunset Impact on Farmers – Sec 179 & Bonus Depreciation

- § 179 TCJA Changes are Permanent
  - § 179 allows businesses to immediately deduct capital expenditures up to a certain dollar limit.
  - TCJA **permanently doubled the § 179 limit** from $500K

    to $1M indexed for inflation (2024 - $1,220,000).
  - TCJA increased **Bonus Depreciation** from 50% to 100%
    - Bonus Depreciation allows the accelerated expensing of a capital expenditure in the 1st year. It's applied AFTER § 179.
    - Increased Bonus Depreciation phases out from 2023-2026.
    - TCJA Bonus Depreciation phase outs only impact farmers expensing more that the $1,220,000 § 179 limit.

A new John Deere X9 Combine can cost from $600K to $1M.

Source: McDonald, T. M., & Durst, R. (2024). *An analysis of the effect of sunsetting tax provisions for family farm households* (Report No. ERR-328). U.S. Department of Agriculture, Economic Research Service.

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Business Succession Planning For Farmers & Ranchers

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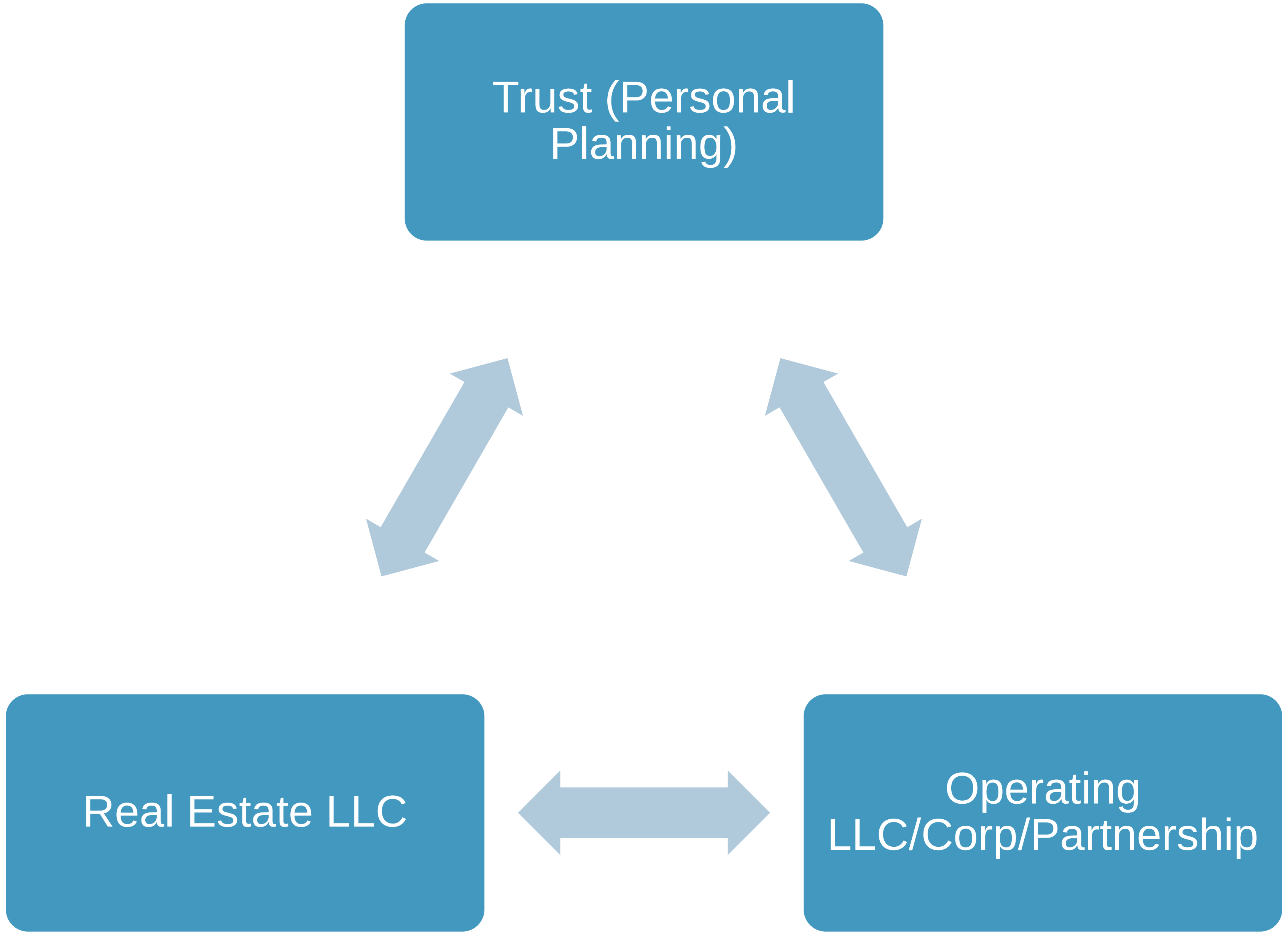
Ownership Strategies for Farming & Ranching

- Trusts
- LLCs
- Partnerships
- Corporations



Need to consider plan structure – i.e. use of entities for ownership & transfer

To Incorporate or Not Incorporate –That is the Question

Reasons why farms incorporate

- It is easy to transfer shares.
- May simplify estate settlement
- Self-employment (SE) tax can sometimes be reduced with a corporate structure.
- Deductions – food, lodging, etc.
- Deductions – Fringe Benefits
- Perpetual

Potential concerns related to incorporation

- Exiting Corporation is taxable event
- Retained earnings or excess profit - this can result in a tax obligation.
- Corporations have a different set of rules.
- Minority shareholders have no power in directing the corporate business and can be easily “frozen out.”
- Retirement income from an operating corporation can be difficult

Using partnerships and corporations to transfer farm assets

Establishing a business entity, such as a partnership or corporation, can help with the process of transferring a farm business to the next generation.

Generally, there are two major categories of partnerships:

- partnerships
- limited partnerships.

Generally, the two corporation entities available to farm businesses are:

- S corporation
- C corporation

Typically, separate operating and real estate entities are recommended.

Farm & Ranch Buy-Sell Planning – Connelly Case

Thank You

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