

# PROTECTING FARM ASSETS

Trusts and Other Estate Planning  
Tools



HARRIS-PERO LEGAL COUNSEL, PLLC

Megan Harris-Pero, Esq.  
Harris-Pero Legal Counsel, PLLC  
Saratoga Springs, New York  
[www.HPeroLegalCounsel.com](http://www.HPeroLegalCounsel.com)

# The Waiting Room



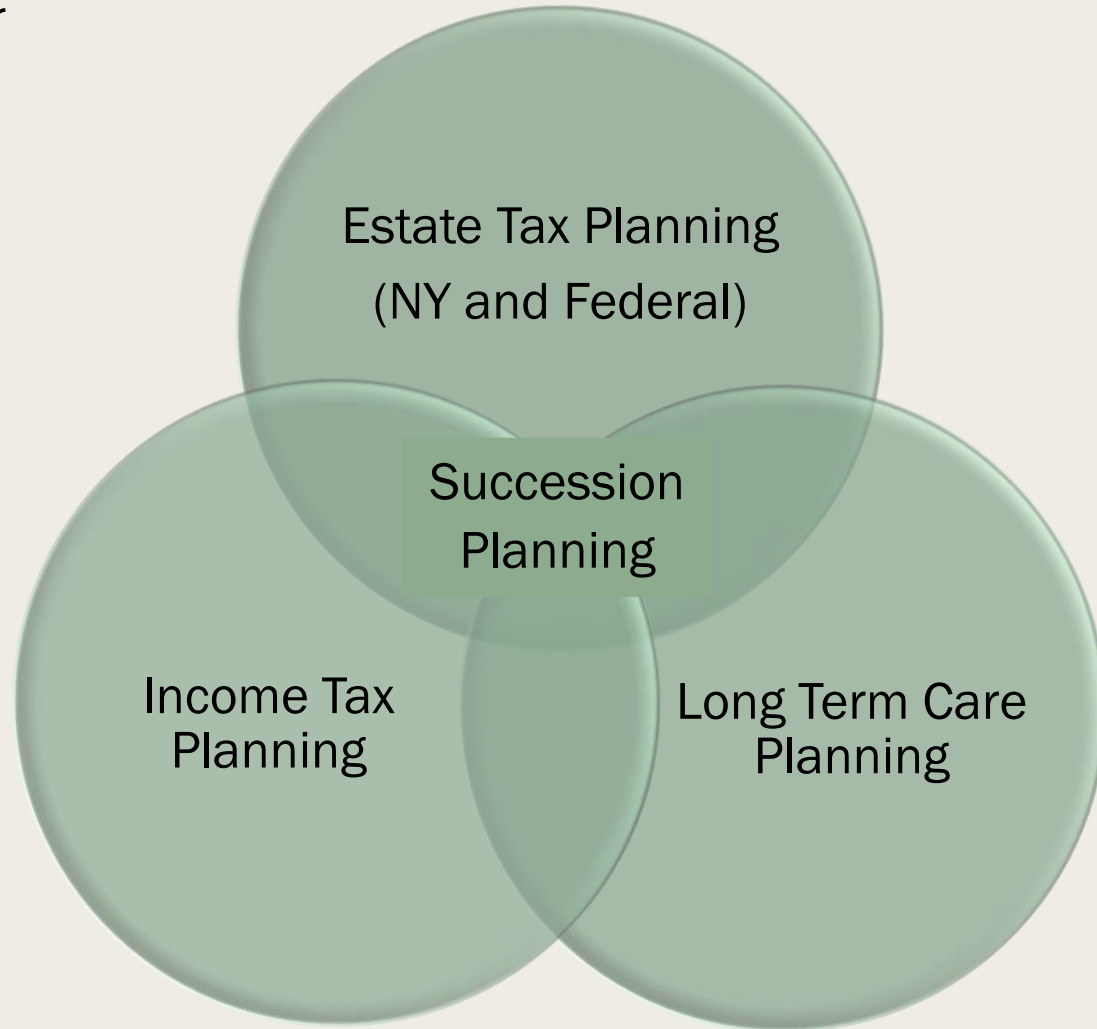
[www.HPeroLegalCounsel.com](http://www.HPeroLegalCounsel.com)

# What Is the Estate Plan For?

- Make Your Own Decisions
- Prevent Family Disputes
- Retirement – Elder Long Term Care, Taxes
- Business Interests Succession
- Provide for Spouse and/or Minor Children
- Protect Family Property
- Privacy
- Protect a Special Needs Loved One

Financial Advisor

Attorney



Tax Advisor

Mediator

# Basic Parts of An Estate Plan: *Documents with Life Consequences*

- Power of Attorney
- Health Care Proxy
- Living Will

**HANDLE**  
**WITH** *Care*



[www.HPeroLegalCounsel.com](http://www.HPeroLegalCounsel.com)

# Power of Attorney

- New York General Obligations Law § 5-1501

## Important!

- Consider Farm Needs
- *Modifications, Initials, Broad Powers*
- Execution (notary, witnesses for SGR)
- Durable – incapacity does not terminate
- Avoid Guardianship; Last Minute Long Term Care Planning (with modifications)



# Basic Parts of an Estate Plan:

## ***Documents with After-Death Consequences***

Last Will & Testament

or

*Intervivos* or Living Trust

(with Pour Over Will or Companion Will)



# Without a Will

## *Intestate Succession*

- Your plan is the State's Plan
  - *Should you pass away without a Will, your spouse will receive the first \$50K and one half of your remaining (residuary) estate. The balance will be split among your children.*
- EPTL § 4-1.1-4.1.6
- Consider the impact on farmers:
  - *Tying up assets in court*
  - *Splitting the farm among non-farming heirs*





# Basic Parts of an Estate Plan: *Planning for Your Family*

- Minor Guardianship Designation*
- Burial Designation*
- Non-Probate Asset Considerations*
- Out of State Property (Revocable Living Trust)*

## ***Beyond Basics:***

- Business Succession Planning*
- Ethical Wills*
- Long-Term Care (Medicaid, Insurance, or Pay?)*



# Basic Estate Planning for Everyone

- Review how Property and Accounts are titled
  - advisors can't plan for whole picture if we don't have all the facts
- Check and update Wills or Living Trusts
- Durable Power of Attorney
- Health Care Proxy and Living Will

