Liability Protection, Risk Management & Owning Rural Land

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Wildlife management & risk management

Wildlife management is typically less risk
- Vs traditional Ag
- Human and land use
- Keep hold of property with less work

What are the risk factors?
- Cattle
- Hunting
- Injuries
- Etc.
Owning a piece of Texas

Owning property is often one of the most valuable assets that a family possesses. It often represents deep emotional bonds and heritage. Though, often times the land is inherently used for fun yet “dangerous” activities such as diving and swimming, hunting, ATV, etc. And other times personal or business financial setbacks can affect your ownership and legacy.

Unlike your home or car insurance, there isn’t a single solution to protect yourself and your land and it’s best to have layers of risk management and liability protection in place.
Property ownership structure

There are various reasons for property owners to place an ownership structure on their property. And there are many types of ways to structure your property.

- Sole Proprietorship
- General Partnership
- Limited Liability Partnership
- Corporation
- “S” corporation
- Limited Liability Company (LLCs)
Limited liability company (LLCs)

What is it?
• Limited liability company (LLC) is essentially a hybrid business structure: it combines the limited liability protections of a corporation with the managerial and decision-making informality and flexibility of a partnership.

Importance of proper set up
• Legal documents are critical to maintaining liability protection
  • Certificate of formation
  • Operating agreement
  • Meeting minutes and resolutions
  • Membership certificates
Limited liability company (LLCs)

How LLCs fit the structure of owning rural land

- Can simplify ownership
  - Can be applied on multiple properties
- Appoint manager(s) to make decisions day-to-day, sign documents, etc.
- Typically easier when working the Central Appraisal Districts (CAD)
Limited liability company (LLCs)

Who are good candidates for an LLC?

Let’s start by answering these questions:
• Are there liability risks?
• Is the property producing income?
  • Active or passive income?
• How is the property managed?
• What is the family dynamic?
• Are there heirs?
Limited liability company (LLCs)

Why should you put an LLC on your property?

• Simplifies process for family ownership
• Documents to refer to for any disagreements
  • One “day” of making tough decisions rather than decisions each time something comes up
  • Legal discourse
• “We all agree…” mentality does not last, especially with multiple owners
LLC advantages

- Liability protection
  - Serves as a shield for your personal assets that aren’t held by the entity
  - Entity owners nor those serving as management are personally liable for an entity’s debts and obligations (generally speaking)

- Insurance coverage
  - Entity’s liability protection extends as far as entity’s insurance coverage
LLC advantages

- Taxes
  - Sometimes, conveyance of certain assets into an LLC offers estate tax advantages, by utilizing “discounting” and other rules regarding valuation of assets and assets owned by entities
  - Expenses that are related to the business are tax deductible
  - Income only taxed once at the individual level
LLC disadvantages

• Property rights considerations
  • Once property is an LLC, it becomes an asset of the LLC
  • The prior owner no longer has the right to partition or the right to transfer the property via will or other estate planning instrument
  • The owner now must transfer an interest in the entity
  • The entity must have separate bank accounts and recordkeeping from personal assets
  • Mixing entity assets with personal assets may void liability protection
LLC disadvantages

- Liability / insurance coverage
  - Without a liability shield in place, personal actions can incur liability and personal assets can be at risk
  - Umbrella policies must be considered and purchased

- Taxes
  - CPA should be included in decision-making process to avoid unintended tax problems
  - Certain entities have specific tax requirements that may complicate entity finances
    - Ex: C-type corporations must pay separate income tax; partnerships and LLCs may not be able to pay a true “salary” to an owner
Questions?
Sister Companies

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Thank you!

Plateau Land & Wildlife Management
Less work, more enjoyment.

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