

Farm Asset Protection: Are You at Risk?



MULCAHY & CO | P 03 5330 7200 | INFO@MULCAHY.COM.AU | 300B GILLIES ST NTH, BALLARAT

FARM ASSET PROTECTION

A farming enterprise, like any other business, carries with it certain risks. However, it may be said that a farming business carries with it an inherently greater risk due to the nature of its operations.

Greater Risk
EQUALS
Greater Need
to Protect
Assets

WHAT IS ASSET PROTECTION?

Asset protection is separating the valuable assets from where the risk is. Your farm enterprise includes the farm assets and the farm business. The farm business uses the farm assets to produce something. This process requires the use of equipment and may also require employees or contractors to complete this. The business deals with customers, suppliers and financiers. The farm business is where the risk is.

The aim is to separate the farm business from the valuable farm assets. Separation means owning and controlling the assets in a different entity or name than where the farm business operates. If something goes wrong in the farm business the assets have a different owner than where the business is carried out, providing a degree of separation and protection.

WHAT ARE FARM ASSETS?

Farm assets include land, livestock, plant and equipment, stock on hand, warehoused stock, buildings and infrastructure. It also includes stock (e.g. grain, hay, potatoes, sheep, cattle) that you have sold but have not been paid for.

These are all tangible assets and are a result of your investment and hard work. There are other intangible farm assets such as related party loan accounts.

This is where money is owed or owing between entities or an entity to or from individuals. It is important that farmers understand that in certain circumstances these loan accounts are an asset and can be claimed on by creditors.

ARE MY FARM ASSETS EXPOSED?

Most farming enterprises have grown over the years in size and value. A typical farming enterprise has started off as a dad and mum partnership, land was purchased, there may have also been land gifted or inherited in personal or joint names, additional land is purchased and maybe a family trust has been introduced to hold and/or run the farming business. Over the years, related party and family loan accounts have increased in value. A self-managed superfund may have been introduced to hold some of the farmland and other investments.

In this scenario it is important to complete a detailed review to determine who or what own and control the assets and who or what operates the farming business. Typically the owning and the running are mixed up and is happening in the same ownership structure. Loan or capital accounts are in existence. In the event something goes wrong in the farming business and the business is sued, the creditor has clear access to the farming assets.

WON'T OUR FARM INSURANCE POLICY COVER US IF SOMETHING GOES WRONG?

It is still critical to have insurance in place and this needs to be reviewed annually. The question is, will the insurance company cover you if it is found that the farm business acted negligently or failed to comply with the requirements of operating a farming enterprise? For example can any farmer say they are complying 100% with occupational health and safety requirements? Are all vehicles road worthy and serviced by qualified service people? Can you be certain that all produce is sold disease and contaminant free? Can livestock be kept off the road at all times? These are a few examples where an insurer may expect and require that a farmer has complied with the necessary requirements if something goes wrong. Is it possible to comply with all requirements? It is therefore critical to protect the valuable assets where possible.

HOW DO WE PUT AN ASSET PROTECTION PLAN IN PLACE?

An asset protection plan covers the ownership structure of assets, ensuring they are owned in the right names or entities to limit the risk and exposure to creditors.

The first step is to understand how the assets and business are owned and operated and review loan and capital accounts. The next step is to look at ways that the assets and the business can be separated.

The next step is to review the individuals in positions of control in entities you may have, such as a director of a company.

IMPORTANT DISCLAIMER: This document does not constitute advice. Clients should not act solely on the basis of the material contained in this document. Items herein are general comments only and do not constitute or convey advice per se. Also changes in legislation may occur quickly and we therefore recommend that our formal advice be sought before acting in any of these areas. This document is issued as a helpful guide to clients and for their private information.

ACCOUNTING | FINANCIAL PLANNING | LENDING | LEGAL | INFORMATION TECHNOLOGY

MULCAHY.COM.AU





MULCAHY & CO | P 03 5330 7200 | INFO@MULCAHY.COM.AU | 300B GILLIES ST NTH, BALLARAT



Are You Financially Secure?

At Mulcahy & Co we are in a unique position to provide the expert advice and solutions of accounting, financial planning, lending, legal and information technology all under the one roof. This makes a normally complicated process seamless to help you on your way to becoming financially secure.

WHAT DOES BEING FINANCIALLY SECURE MEAN?

It means assessing your personal and business goals and developing a plan to achieve them.

1. Goals & objectives
2. Estate plan
3. Risk plan
4. Asset protection plan
5. Taxation plan
6. Debt plan
7. Retirement plan
8. Business plan
9. Superannuation plan
10. Investment plan

FOLLOW OUR 10 STEPS TO SUCCESS TO ACHIEVE FINANCIAL SECURITY... Visit www.mulcahy.com.au for more information



mulcahy.com.au

The window of opportunity

Separating assets normally requires a purchase and sale for taxation and stamp duty purposes. Currently in certain circumstances there are concessions available that enable such transfers of assets to be completed taxation and stamp duty free (in Victoria). This has the potential to save '000's. Will these concessions continue in the future as governments look at all options to raise additional revenue? We recommend taking advantage of this opportunity.

Other asset protection measures

It is also important to remember other protection measures, such as:

- Consider who needs to hold positions of control and exposure to debts. For example do you both need to be directors?
- **General insurance:** Is it up to date?
- **Work cover policy:** Consider the 'buy out' option.
- **Personal Property Securities Register (PPSR):** Put on place terms and conditions for customers that enable you to become a secured creditor on the event a customer cannot pay.

We offer a free no obligation meeting to review your situation. Call us today on 03 5330 7200 and take advantage of this valuable offer.

Understand how other passive and investment assets are owned.

- **Personal Insurance:** Review life, TPD, trauma and income protection insurance to make sure it's relevant.

You work hard to accumulate assets and protecting them is essential to becoming financially secure.

It is important to understand that restructuring asset ownership can also be beneficial for your succession and estate plan.

You have the ability to implement measures to protect your assets. This is an important step in ensuring your financial security.

