



Rely on **TDS**

Getting The Most From Your Advisers

By Elmer Gomes



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As farms and agri-businesses get bigger and more sophisticated, there are not only new opportunities but also continuous and growing pressures on margins and on resources, both human and capital. Increasingly, this means drawing on the skills, knowledge, experience and in many instances, foresight and resources of others to meet these evolving needs.

Are rising costs and/or access to market becoming an issue and, if so, are there opportunities to address these issues?

Is there a potential to enter new markets? What are the barriers to realizing the potential and how can you as the business owner explore that potential and minimize the risks?

Not only should the “what keeps you up at night?” question be asked, but fundamentally, the following question should be explored with your advisers. What do you want to accomplish in the future, and what is the most efficient and cost effective way to get you there?

Are there tax efficient ways to implement succession planning steps early on, and not only from an income tax/capital gain perspective? Are there opportunities to reduce transactional costs such as land transfer or advisory costs?

The value of trusted advisers is that they often bring more to the table than their legal, accounting or lending advice. They will have contacts and clients who have likely faced similar challenges and opportunities that might become an invaluable resource for the farm and agri-business owner.

All of your professional advisers want you to tap into that resource.

What is the best way to accomplish this? In a perfect world, the owner would meet with their lawyer, accountant and lender together to discuss the challenges and opportunities that the business owner is facing. It is important to include all or as many advisers because each could have different advice and perspective depending on the circumstances. For example, lawyers and accountants may start to consider a reorganization to address asset protection or succession planning needs, but the proposed structure may not allow the maximum opportunities from a lending perspective – which could be crucial for the business in the short term.

It goes without saying that your trusted advisers must be just that – trusted. However, it is important to appreciate that it may take some time for you to develop the level of trust necessary to share some of your issues with those advisers. After all, in many cases, these issues will have a personal or family component to them.

It can also take some time to build up the trust needed to receive advice and to confidently act on it.

The key is to engage your advisers relatively often to develop that level of trust – and it need not be formal. Whether this is done by setting up a specific meeting or simply by getting together for a lunch or breakfast where you can speak freely, it is beneficial to have a forum to discuss your business concerns, questions or strategies.

Schedule these meetings on an annual basis at a minimum, and get in the habit of arranging them well ahead of time and before you have a specific need. The concept seems simple enough, but with the rigours of day-to-day demands, it may not happen unless you make a point of it.

To get the most out of your meetings, have an agenda of items that you want to discuss. Circulate it ahead of time to get feedback and be open to other topics or issues that your advisers think should be on that list.

Even when the agenda questions are general in nature, they can help focus or lead the discussion. And most importantly, such meetings will allow ideas to be exchanged, and the level of trust to develop.

Success requires getting the most out of professional and trusted advisers, including lawyers, accountants and lenders. No doubt, there are others – not only those who provide professional services, but those in the industry who have experience and specific knowledge.

Typically, providing professional services and advice is reactive. A client calls an adviser because they have a need or an issue that must be addressed. The lawyer, accountant or lender then provides advice and service that meets the goals of the client to address that particular need.

It is reactive because both the client and the adviser are reacting to the specific need or issue which arises at that time.

The better approach can be for the farm or agri-business owner and the adviser to be proactive and understand the ultimate goals of the business owner, not just in the immediate future but in the medium and long term as well.

Being proactive means assessing the opportunities that exist and also understanding and exploring, what my accounting friend calls, the “what keeps you up at night?” question. The goal of the relationship between the farm owner and the trusted adviser should be to explore and understand what these questions are, and what the opportunities are to address them.

For example, are the swings in the highs and lows of the farm or agri-business taking their toll? Does it make sense (i.e. provide peace of mind to the owner) to explore whether there are opportunities to credit proof some or all of the assets in the farm operation or business?

Does the owner anticipate having cash flow issues? If not, should they? And, if so, at which point should you address that with your lender?

Is succession planning being considered? If not, or not seriously, is it because the dynamics of the family or business structure complicate the analysis? For example, what do you do if there are “on the farm children” and some “off the farm children?” Do those involved in the farm or agri-business really understand what the expectations of the others are? How will decision making and allocating responsibility be determined in the future? What are the options for present owners who wish to remain involved after the business ownership changes hands?

Are the transitional requirements of HST being properly addressed to avoid any unnecessary penalties or interest?.

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Elmer's practice consists of all aspects of corporate, commercial and real property law. He has significant experience in commercial real estate conveyancing, financing, leasing and development and also has experience in mergers and acquisitions. Elmer also has experience and assists clients in technology and intellectual property law issues, including licensing and protection matters. Elmer is the Co-chair of the firm's Agribusiness Industry Group.