CIRCULAR A-508

REVISED MARCH 1968

The Farm and Ranch Corporation

> Any corporation is an artificial person created and operated according to state corporation statutes. Persons seeking detailed advice on the legal framework within which corporations are organized and operated should seek the counsel of their lawyer. In the event that farmers will be allowed to incorporate their farms after the 1968 general election, individuals considering incorporation should by all means consult an attorney. This publication is not intended to substitute for legal counsel.

DEVELOPMENTS IN 1967

- The 40th Legislative Assembly, 1967, repealed certain sections of the 1932 law which specifically prohibited corporations from farming or owning farm land in North Dakota.

- The Governor vetoed the 1967 bill.

- The Assembly passed the bill over the Governor's veto.

- Sufficient signatures were obtained and referral petitions were filed with the Secretary of State during the 90-day constitutional referral period.

- This referral suspends the bill until the general election of 1968 when the referred measure will appear on the ballot to be voted on by the electorate.

INTRODUCTION

The purpose of this circular is to (1) outline the provisions and standards of the bill passed by the North Dakota legislature in 1967 and then referred to the people, (2) outline alternative forms of business organization, (3) present the basic structure and operating procedure of a corporation, (4) discuss some of the benefits and drawbacks of farm incorporation as contrasted to the sole proprietorship or partnership, and (5) discuss briefly the mechanics involved in forming or dissolving a corporation.

Interest in the corporate form of business organization for farmers is a direct result of the passage and subsequent referral of the bill passed by the 1967 legislature. The voters, both farm and nonfarm, will decide in the 1968 general election whether or not farmers will be allowed to incorporate their farm businesses.

North Dakota farmers are not alone in their interest and concern about the place of corporations in the agricultural production industry. Farmers in other states are closely studying the place of the corporation in today's agriculture.

A majority of the states allow farmers to incorporate or corporations to engage in agricultural production.

Fred Sobering
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[redacted]

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In the majority of states, farm corporations are regulated by state corporation laws. Certain exceptions exist. The status of farm corporations in the state of Oklahoma is presently under consideration by that state's courts.

A few states have placed certain limits on farm corporations. Minnesota and Kansas are two examples of states with specific limitations. Minnesota law forbids a corporation to acquire more than 5,000 acres of land. Kansas law restricts corporations engaged in dairying or in the production of grain or potatoes to those with not more than ten shareholders. The incorporators are limited to Kansas residents. Stockholders must be individuals and these corporations cannot own, control, manage or supervise more than 5,000 acres of land. Corporations engaged in such things as beef cattle production are not subject to these limitations under Kansas law.

What accounts for this increasing interest throughout the nation in the corporate form of farm business organization? One reason lies in the changing conditions for agricultural production. Today's economic-sized farm unit is larger than ever, requires more investment, takes a higher level of managerial ability to operate, and is increasingly more difficult to pass intact from one generation to the next. It is possible that for some farm families the corporate form of organization may be a better way of doing business in light of this situation.

Some of the interest in the corporate form of organization for small businesses such as farms was a direct result of a 1958 change in the Internal Revenue Code which permitted certain small corporations to be taxed as partnerships. Prior to this amendment, income of all corporations, large and small, was taxed twice. Income was taxed to the corporation itself and again when the corporate earnings were distributed to the shareholders. This double taxation feature was such a disadvantage that relatively few farms in the U.S. were incorporated prior to 1958.

COMMON FORMS OF BUSINESS ORGANIZATION

Two forms of business organization, the sole proprietorship commonly referred to as the owner-operator, and the partnership are common on North Dakota farms. A cooperative can be organized to engage in farming, but this form of business organization has not been commonly used on farms.

In the sole proprietorship, one man through ownership or rental controls the resources in the business. He makes the decisions, runs the business, receives the profits, and is liable for the losses.

A partnership consists of two or more owners in business. Each contributes assets to the business and shares the management, profits and losses. Each is liable for the actions of the other partner(s) in the business.

The cooperative engaged in agriculture must have at least five adult members with at least 75% of the stockholders resident farmers or receiving their principal income from farming. Cooperatives operate on the one man-one vote principle without regard to the number of shares held by each individual.

THE NORTH DAKOTA FARM CORPORATION BILL

The Act passed by the 40th Legislative Assembly in 1967 allows certain corporations to own real estate and carry on farming and ranching operations. What is meant by a corporation farm? We are concerned here with the voluntary formation of a corporation for the purpose of operating a farm or ranch business. This is not the same as corporate control of farmland that may result when a nonfarm corporation, such as a lending institution, involuntarily acquires land, as through a mortgage foreclosure. This is an important distinction and specific reference is made to it in the bill.

Limitations

Specific standards are written into the bill passed by the 1967 Legislative Assembly. Future reference in this pamphlet to a farm corporation will refer to a corporation that conforms to these standards.

The North Dakota bill established these standards for a corporation to own real estate and engage in farming:

1. The shareholders shall not exceed 10 in number.
2. The corporation shall not have as a shareholder a person, other than an estate, who is not a natural person.
3. The corporation shall not have more than one class of shares.
4. The corporation's income from rent, royalties, dividends, interest and annuities does not exceed 20 per cent of the corporation's gross receipts.

Reference was made earlier to the 1958 change in the Internal Revenue Code that allowed small corporations to elect to be taxed as a partnership. The North Dakota bill conforms closely to the standards required for this election under the federal directive.

Limiting the number of shareholders guarantees that the farm corporation would not be publicly owned with many "owners" in all parts of the country. The farm corporation would be "closely held" and owned by a small group of shareholders who may or may not be family related.

Since a shareholder in the farm [redacted] North Dakota bill must be a natural [redacted] other corporations cannot own stock [redacted] tion. An exception in the 1967 bill provides that other corporations may acquire shares in the [redacted] of business, as through a mortgage foreclosure. However, such shares acquired by a nonqualifying person must be disposed of to a person qualifying under the provisions of the bill within 10 years.

The 20 per cent limitation on gross receipts ensures that the farm corporation's primary purpose would be to own and operate assets for agricultural production. A land holding company specifically organized to own and rent land to tenant farmers and take no active part in the management of the land would likely not qualify under this bill.

WHAT IS A CORPORATION?

The corporate form of business organization is prescribed by state law. A corporation is an artificial legal person created under state statutes. It is referred to as a person because it has powers and duties very similar to those of a natural person. The corporation acts through its human agents and its employees. It can conduct business, sue and be sued, buy, sell, hold and deal in real and personal property.

A corporation differs from a partnership or the sole proprietorship in several ways: (1) a corporation continues after the death of a shareholder with his shares of stock transferred to others, (2) a shareholder generally is liable only for his investment in the corporation as contrasted to a partnership where a partner is liable for all debts of the business, (3) a voting privilege generally accompanies stock in a corporation on a one share-one vote basis.

People and the Corporation

Generally four groups of people are involved in a corporation, namely: (a) incorporators, (b) shareholders, (c) directors, and (d) officers. Each individual has rights, privileges and duties in the corporation. The last three groups of people hold decision-making authority and responsibility once a corporation is organized. In most small corporations the same individuals may be a member of all three decision-making groups.

The incorporators organize the corporation. North Dakota corporate law specifies at least three incorporators. They must be natural persons 21 years of age or older. An incorporator is defined as a person who signs the original articles of incorporation. An incorporator does not necessarily become a shareholder.

Shareholders own the corporation. Once the corporation is formed the owners of property (land, machinery, livestock and/or capital) transfer the ownership of this property to the corporation. In return they receive shares of stock based on the value of their contribution. Each share represents ownership in the corporation. Each share normally represents one vote. A majority of shares controls the corporation. North Dakota corporate law does not specify any minimum number of shareholders so one person may own all the shares in a corporation.

Shareholders elect the directors who determine the policy and manage the corporation's affairs. These directors elect the officers who implement the directors' policy. They see that the daily business of the corporation is carried out.

In a typical family farm corporation, the father, mother and children are the shareholders, the directors and the officers. If the father holds at least 51 per cent of the shares, he controls the corporation as the majority shareholder.

Closely Held Corporation

Generally, corporations may be publicly owned or closely held. The publicly owned corporation may have many thousands of shareholders or "owners." A "closely" held corporation is owned by a small group of shareholders. The stock is not available for public purchase. In many closely held corporations the transfer of stock is restricted to prevent it from passing to outsiders.

PROS AND CONS OF INCORPORATION

What are some of the benefits and drawbacks of the corporate form of operating a farm business as compared to the single proprietorship or partnership? What problems may occur through incorporation that farmers have not encountered?

Possible Advantages:

The corporate structure in farming may help to:

- Provide an easier way to transfer property and management responsibility from one generation to another. It may help to keep the farm in the family.

- Obtain additional capital or credit that is needed to build or maintain an efficient farm business.

- Limit the liability of the individual.

- Minimize state inheritance and federal estate taxes for the estate.

- Provide a way to efficiently manage a large business where two or more people are involved.

- Provide retirement programs to supplement those in effect for farmers.

Possible Disadvantages:

Some factors that may be considered drawbacks to incorporating the farm are:

- Problems encountered by minority shareholders in a small or "closely" held corporation.

- Costs involved in setting up and operating the corporation.

- Accounting, bookwork, records, reports and required meetings.

- Corporation taxes.

- Problems in dissolving a corporation.

Transferring Ownership and Management Responsibility

Transferring farm property, managerial control and responsibility is a major problem facing North Dakota farm families. This is particularly true if the farm is large, the parents want to treat each child in an equitable manner, and one objective is to keep the farm within the family.

One advantage often cited for the corporate farm is that it simplifies property transfer at or before death. Most North Dakota farms are owner operated. Upon the death of the owner, the business may be disrupted, or in the process of distributing the property among heirs, the farm may be divided into noneconomic sized units. Typically these fragmented units are acquired by existing farms and not kept in the family.

A partnership is dissolved and liquidated when a partner dies. A new partnership can be formed. If the survivor(s) buy the share of the deceased, unmanageable debt obligations may be incurred that will limit the efficient operation of the unit. If the surviving partner cannot get the capital or credit to buy the deceased's share and the heirs are not willing to continue as a partner, liquidation must take place.

Sole proprietors or partnerships can make plans to transfer ownership and management of a farm. But transfer by sale, contract, gift, combined sale or gift and by will lack the flexibility possible under a corporate structure.

A North Dakota corporation can be formed to exist for a definite number of years or for an indefinite period of time. The life of the corporation does not depend on the lives of people, its owners or managers.

Shares of stock represent ownership in the corporation. They may be given away, sold during the life of owner, or transferred at the time of death without necessarily disrupting the continuity of the farm operation. From a practical standpoint, particularly in the family corporation, the loss of an important shareholder can have serious consequences. Incorporation alone is no solution to this problem in the absence of an adequate plan to ensure continued operation under competent management.

It is physically easier to transfer shares of stock from parents to children than acres of land. Shares in the corporation add flexibility to this transfer. The ease of orderly and gradual transfer of the farm business can provide for a progressive shift in ownership and management. In the simplest case, keeping 51 per cent of the shares ensures control, while the other 49 per cent may be sold or given as gifts. More refined plans would be possible if more than one class of stock, voting and non-voting, could be issued. However, the North Dakota farm corporation bill does not allow more than one class of stock.

Capital and Credit Availability

A farm cannot operate efficiently without adequate capital for expansion and current operating needs. In some situations, a farm corporation may find it easier to get credit. The continuity of operation may encourage a credit agency to extend more liberal credit if the corporation appears to be a more permanent form of organization. However a "one man" corporation or one with no sound plan for managerial succession has no real permanence.

Nonfarm members of the family or other off-farm investors may be encouraged to keep their interest in the farm business or to invest in the business. Incorporation can provide a way to pool family capital. The family farm corporation likely would not solicit capital through sales of stock outside the family. Additional capital for operating or expansion would come from traditional credit sources. The corporation's assets would be pledged as security against loans which may or may not be secured by the shareholder(s) personal guarantee.

Some would consider the records and business methods required of corporations as red tape and a nuisance. However, these same records could improve the credit standing of the firm under any form of business organization. But the law requires that corporations submit accurate reports based on records.

Corporations are not eligible for certain types of federal loans. Farmers Home Administration real estate loans are not available to farm corporations. Corporations are not eligible for FHA operating loans to buy livestock, feed, seed, fertilizer, other supplies and equipment. Rural housing loans are not available to corporations.

However, farm corporations are eligible for FHA emergency loans and soil and water loans. Federal Land Bank and Production Credit Association loans may be made to farm corporations under given conditions.

Production Credit Association loans may be made to a farm corporation if 75 per cent or more of the stock is owned by individuals actually engaged in its farming or livestock operations, or the major portion of corporate assets consist of property actually devoted to farming or livestock production and at least half the gross income is derived from these operations. Personal guarantee of the indebtedness is required from at least a majority of the shareholders.

Federal Land Bank loans may be made to a farm corporation that derives more than one-half of its income from farming and a substantial portion of the stock is owned by individuals engaged in the farming operation. For FLB loans, personal guarantee will likely be required by a majority of the shareholders.

Limited Liability

An important feature of any corporation is the limited liability of the shareholder. A shareholder's risk of loss is usually limited to the amount of his investment in the corporation. As a general rule, shareholders are not liable for the obligations or responsibilities of the corporation.

A shareholder with all his assets invested in the corporation would benefit little from this provision. It would protect him from the personal liabilities of other shareholders. If a lender requires that a shareholder or shareholders sign personally for corporate obligations, he extends his personal credit and all his assets are pledged against the obligation.

In contrast, a single proprietor is personally liable for debts incurred against his business. In a partnership, each partner is personally liable for any claim against the partnership.

Death and Gift Taxes

The corporate form of business organization does not offer any special freedom from taxes related to transferring property from one individual to another before or after death. The ease of transfer of shares of stock may well facilitate establishing an estate plan that will at the same time fulfill the objectives of the property owner and facilitate tax-savings.

Though minimizing taxes in the process of settling an estate is important, the prime consideration should be the transfer of property according to the decedent's wishes. The corporate form lends itself to an easy transfer of property during the lifetime of the individual while keeping managerial control.

The ownership transfer of corporate stock, like other property, is subject to taxes when the owner dies. With incorporation, the size of the individual estate will depend on the number and value of shares owned, less the exemptions or exclusions allowed under state and federal laws.

Federal laws encourage the individual to transfer property during his lifetime. A specified amount of property can be transferred from one individual to another or others tax-free. Also the gift tax rate is lower than the federal inheritance tax schedule.

Under the federal gift tax law every individual is allowed to make $3,000 of outright gifts to each beneficiary each year free of tax. Each person, in addition to the annual exclusion, has a cumulative lifetime federal gift tax exemption of $30,000 to all beneficiaries. The tax exemptions are doubled for gifts by a husband and wife to other persons.

Social Security Taxes

Shareholders working for the corporation are employees and therefore subject to social security taxes as employees and not as self-employed farmers. The combined employee-employer social security tax rate is higher than an individual's self-employment rate. For 1968, social security tax rates are 6.4% of the first $7,800 for self-employed individuals. As corporate employees, the employee pays 4.4% which must be matched by the corporation as an employer for a total combined rate of 8.8% on the first $7,800 of taxable income.

However, the corporation can pay the full 8.8% and deduct it as an expense. In this case the employee's share of the tax paid by the corporation is taxable income to him. For social security purposes, the shareholder's portion of corporate income over and above his salary is not self-employment income. The fixed salary of a corporate employee for a social security base may make it easier for a farmer to qualify for maximum social security benefits as contrasted to the fluctuations that may occur in self-employment income in farming. Wages paid to a child under 21 by the parent's corporation are subject to social security tax deductions.

Federal Income Taxes

The effects of federal taxes are a consideration when organizing, dissolving and/or operating a corporation. It is impossible to discuss all the differences and similarities that exist in the tax regulations governing businesses organized as sole proprietorships, partnerships or corporations. However, rarely would incorporation give a farm family an income tax advantage large enough to provide the main or only reason for incorporating. The opposite might well be the case.

For federal income tax purposes, corporations fall into two categories. In the standard method of corporate taxation, the corporation pays taxes on its taxable income and then shareholders are taxed on the income distributed to them as dividends. This is what is meant when people refer to the "double taxation" feature of corporations.

The small or "closely" held corporation has the option of electing to be taxed as a partnership. That is, the shareholders can choose to have all the corporate income taxed to themselves as individuals. This election is discussed in more detail later in this section.

The regular corporate federal tax rate is 22% on the first $25,000 of taxable income and 48% on any taxable income greater than $25,000. The corporation does not compute its taxable income in exactly the same manner as an individual. Corporations have no personal exemptions or nonbusiness deductions. However, the corporation's deductions of salaries, wages and interest include those salaries paid to shareholder-employers, rent paid to shareholder-landlords, and interest paid to shareholder-creditors. Salaries, rents and interest received by shareholders would be reported by these individuals as income on their personal returns along with dividends and other incomes, if any. Other deductions the corporations have which might not appear on an individual's federal tax computation are mentioned in the section on social security taxes and shareholder employee benefits.

Since salaries, interest and rent to both share and nonshareholders are an expense deduction to the corporation, farm corporations taxed by the regular method would likely pay out nearly all earnings and profits to avoid double taxation and high corporate tax rates. Bonuses are allowed if paid as compensation for services actually rendered. Salaries, bonuses, interest or rents paid to shareholders of a corporation are closely scrutinized by the Internal Revenue Service for reasonableness.

Corporation earnings can be retained for expansion, working capital and/or reserves. In the case where the individual's or sole proprietor's tax rate exceeds 22%, the corporation's tax on the first $25,000 will be lower than the individual's.

In the regular corporation, shareholders cannot take an operating loss as an offset to their income nor can they take advantage of the corporation's capital gains or losses. Unlike individuals, corporations are not entitled to a deduction for 50% of long-term capital gains. Corporate net long-term capital gains are taxed at a maximum of 25%.

Small or closely held corporations, often referred to as Subchapter S corporations, have the option of electing to be taxed as a partnership as a result of a 1958 amendment to the Internal Revenue Code. To qualify, such a corporation generally must have (1) only one class of stock, (2) not more than 10 shareholders, (3) less than 20% of the corporation's gross receipts from rents, royalties, dividends, interests and annuities, and (4) all shareholders as natural persons or estates. The election must be made within the first month of the tax year to which it applied or within the month preceding the beginning of such year. All shareholders must agree to the election. This election may be revoked or terminated and a subsequent election not permitted for five years.

Subchapter S corporations do not pay income taxes. Shareholders report income received from the corporation in the form of wages, interest, rent, dividends and bonuses on their personal returns at individual tax rates. The income to the shareholders in the Subchapter S corporation must be reported whether it is actually distributed to them or left in the corporation.

The tax consequences of transferring farm assets to a newly organized corporation are complex. However, it is possible that the transfer of assets from the individual to the corporation in exchange for stock can be tax free. To accomplish this the person or persons must control the corporation immediately after the transfer through ownership of at least 80% of the stock. Exchange of property must be for stock or securities excluding services.

Under these conditions, the corporation takes over the contributing farmer's unrecovered tax cost or basis for each piece of property in figuring depreciation or computing gain or loss on later sales.

If the above conditions are not met, the shareholder transferring property to the corporation will usually realize a taxable gain or loss. Gain or loss is determined by comparing the adjusted basis with its fair market value. The corporation in this case would set up depreciable property on the new, adjusted basis.

In certain cases this might be advantageous.

Shareholder - Employee Benefits

Shareholders working for the corporation are employees and therefore entitled to employee benefits. Farm corporations are allowed to establish employee retirement plans and if these plans qualify under the tax law, payments are tax deductible to the corporation. Other tax-saving employee benefits include accident and health insurance, group life insurance, and sick pay from the corporation.

Federal legislation, "The Self-Employed Individual's Tax Retirement Act" passed in 1962 and amended effective January 1, 1968 is a step towards equalizing the tax treatment of corporate employee-shareholders and self-employed individuals. This legislation, often referred to as the Keogh Act, provides for self-employed persons to set up retirement or self-financed pension plans. Allowable payments would be deductible expenses to the individual upon approval of a retirement plan by the Internal Revenue Service.

Minority Shareholders

A corporation is generally controlled by the majority shareholder or shareholders. Minority shareholders must abide by the wishes of the majority within the restrictions or rules set by the corporation's articles and bylaws, and state and federal regulations.

Shares of stock are generally considered freely transferable between individuals so that dissatisfied shareholders, or those who need their equity in the corporation for other purposes, can divest themselves of these shares. This may not be the case in the small family corporation.

The small corporation may employ various means to restrict the transfer of stock to prevent it from falling in the hands of "outsiders." One method is the buy-sell agreement which is a contract obligating either remaining shareholders, the corporation, or both to purchase a deceased or departing shareholder's stock. First option provisions may be used to effectively restrict stock transfer. This generally provides that a shareholder who wishes to dispose of his shares must give the other shareholders or the corporation the opportunity to buy these shares before they are offered to outsiders.

Both of these methods can effectively restrict stock transfers to "outside" individuals. The market for stock in the closely held family corporation becomes very limited.

Various devices exist to protect minority interests. These devices may or may not be effective depending on the distribution of stock and the provisions of the corporate bylaws. Proxy voting, voting trusts, and pooling agreements are examples of devices that minority shareholders can utilize to gain control of a corporation under certain conditions. Also the "reasonableness criteria" by IRS for rent, interest, salary and bonus payments to shareholder recipients may afford some protection to minority shareholders' financial interests.

Regardless of the legal devices available to protect minority interests of corporate shareholders, the final success of the small, closely held corporation depends on the degree of harmony that exists between the people involved. Also the farm unit must be large enough to pay returns to the resources invested in it by the shareholders. Two basic causes of failure in farm partnerships are disharmony between partners and an inadequate business size. These two factors would be of prime importance in the success of the family farm corporation.

State Taxes

The North Dakota income tax law recognizes the closely held or Subchapter S treatment of corporation income for taxable years beginning on or after January 1, 1967.

Shares of stock in corporations are exempted from personal property taxes. Real and personal property taxes apply identically to corporations and individuals.

Costs of Incorporating and Operating

Certain money costs are involved in organizing, incorporating and doing business as a corporation. Some of these fees are established by state law.

*Initial filing fee -- $16
*Capitalization fee schedule --
$25,000 capitalization or less -$25.
$25,000 to $50,000 capitalization–an additional $25.
For each $10,000 or fraction thereof over $50,000 capitalization—an additional $5.

Each annual report submitted to the Secretary of State costs $5. Other costs are related primarily to changes made during the lifetime of the corporation such as amending the articles of incorporation, cancelling shares, reducing or increasing capitalization. In all cases such fees are nominal.

The attorney's fee for incorporating a farm will depend on the amount of time the attorney must spend on getting the corporate farm operational, since the complexity of each situation will vary. Generally, for the typical situation the attorney's fee will likely be something less than $400.

Records and Formal Procedure

A farm that incorporates must do business in accordance with the corporation laws of the state. This requires an acceptable set of books and records of assets, expenses and income of the business. Records showing the names, addresses and amount of stock held by each stockholder must be kept. An annual meeting of shareholders as prescribed by the bylaws must be held. Special meetings may be called but notice of such meetings must be given to shareholders entitled to vote.

Minutes must be kept of the meetings. An annual report must be filed with the Secretary of State. The report must include among other things a complete statement of the corporation assets and the gross amount of business it transacts.

These records and formal procedures may seem unnecessary to some people. From a management standpoint, good farm records for tax and business analysis purposes promote efficiency of operation.

HOW TO INCORPORATE

State laws regulate the organization of all corporations. These laws are set out in the bulletin "North Dakota Business Corporation Act-Domestic and Foreign Corporation Statutes" issued by the Secretary of State.

Articles of Incorporation

The first step in organizing a corporation is to develop the articles of incorporation which set out such things as the corporate name, information on shares, provisions for regulating the corporation's affairs, and so on. These articles are submitted to the Secretary of State who issues a certificate of incorporation when the legal requirements are met and necessary fees paid. The corporation's existence officially begins when this certificate is issued.

Organizing for Business

The board of directors organizational meeting is held after the certificate of incorporation is issued. Its purpose is to adopt the bylaws of the corporation and elect the officers. The bylaws are the operating rules. They must be consistent with the articles of incorporation and within the laws regulating corporations. Bylaws can be amended during the life of a corporation.

Directors manage the corporation's affairs. They need not be shareholders. The organizing directors named in the articles hold office until the first annual shareholders meeting. Subsequent directors are elected by the shareholders.

Officers of a corporation are elected by the board of directors as specified in the bylaws. They shall consist of a president, vice president(s) as prescribed by the bylaws, a secretary and treasurer. The same person may hold more than one office, except that he cannot hold the combined offices of president and secretary.

DISSOLVING A CORPORATION

Though the life of a corporation does not depend on the lives of people, it can be dissolved or terminated. Since it is created by the state, it must be dissolved by the state. Dissolution may be voluntary or involuntary.

A corporation can be dissolved before it has commenced business or issued shares within two years after the certificate of incorporation is issued. The action must be taken by the incorporators and the procedure is prescribed by law.

A corporation can be voluntarily dissolved by the written consent of all its shareholders. Voluntary dissolution can also occur by act of the corporation. Under this procedure the board of directors adopts a dissolution resolution which is submitted to a shareholders vote at a meeting. Passage of the resolution requires a two-thirds vote.

Involuntary dissolution or dissolving a corporation against its will comes under court jurisdiction. Action for dissolution is initiated by the Attorney General. Causes for dissolution include failure to file required reports, fraud in procuring articles of incorporation, exceeding or abusing their corporate powers.

CONCLUSION

Whether or not farm corporations will be allowed to operate in North Dakota depends on the outcome of the referred measure in the 1968 election. Should farmers be allowed to incorporate after the election, farm families will then be faced with the question as to whether this form of business organization will best fulfill their needs and objectives.

The corporate form has merit for some situations, little or no merit for others. Some may consider it the solution to the problem of transferring farm property to the next generation. But there are many methods that can be used to achieve this goal. The individual should investigate other alternatives for property transfer such as gifts, father-son partnerships, sale agreements, contracts-for-deed, joint tenancy, trusts, annuities, insurance and life estates, to mention a few.

Some people may look on incorporation as a way of reducing the impact of taxes or legal costs in estate planning. How many have explored thoroughly the means available to them under their present form of business organization? Some may consider the corporation a better way to carry on the daily business of operating and managing a farm. But the act of incorporating in itself will not make a better manager.

Incorporation will not be a cure-all for the many problems faced by farm families. It may be a useful tool that can be advantageous in certain situations.

ACKNOWLEDGEMENT: Important sources of information for this circular were (a) The Farm Corporation, North Central Regional Extension Publication No. 11, John C. O'Byrne, Norman Krause, Neil Harl and H. Jurgenson; and (b) Family Farm Corporations, Monograph No. 2, Agricultural Law Center, State University of Iowa, edited by Marshall Harris and William Hines.

niversity of Agriculture and Applied Science, and U.S. Department of Agriculture
.ota. Distributed in furtherance of the Acts of Congress of May 8 and June 30, 1914.