



Managing Shared Assets

By

Lee Hausner, Ph.D.

Douglas K. Freeman, J.D., LL.M.

First Foundation Advisors

The Family Shared Asset

Successful financial families enjoy the economic and emotional benefit of accumulated wealth. Much of this wealth will be or has already been transferred from the wealth creator to, or put under the control of, younger generations. It may consist of a variety of business, investment, and personal use assets, including:

- Operating business
- Vacation property
- Investment real estate
- Farm and ranch land
- Personal residences
- Collections, including antiques, artwork, automobiles, boats and airplanes
- Family foundation

“Family Shared Assets” (or just “Shared Assets”) are assets in which two or more family members (or trusts created for their benefit) own, control, and enjoy economic benefits from the asset. All who have an economic interest have a stake in the outcome; this may include family members, but also former family members (ex-spouses) or even outside third parties. We call these individuals (or entities, such as trusts) the “Stakeholders.”

With all the obvious advantages of inheriting or controlling wealth, there are equally obvious challenges, including:

- Who has the right to use the asset? Who decides if there are competing requests for the use of the asset? Should rent or other fees be paid by Stakeholders who use the asset?



- How is income shared? Who decides if, when, and to what extent income is distributed?
- Who pays for the operating expenses and the capital improvements? What happens if one or more of the family owners fails to do so?
- Who pays for damages to the asset, especially if a family member was the cause of the damage? What are the consequences to the family member for failure to pay for the repair?
- Who has the power to decide to sell the asset? Encumber the asset? What if there is disagreement among the Stakeholders?
- What if an owner wants to sell his or her share? Is it permitted? Who sets the price and terms? Does the family want or will they accept a non-family buyer or transferee?
- What if one or more current owners want to acquire the interest of others? Is that permitted? Who sets the price and terms?

For these reasons, thoughtful families develop a comprehensive agreement amongst all Stakeholders.

Family Shared Asset Ownership Plan

The Family Shared Asset Ownership Plan focuses on the long-range goals, dreams, needs and expectations of the family owners and Stakeholders, including children and in-laws, and perhaps adult grandchildren, each of whom have an interest in or expectation of an equity in, income from, or use of a Shared Asset. If these voices are not heard, the family may experience anything from internal discord to public fighting and even litigation.

The Plan articulates the collective vision of these Stakeholders, and establishes the process, policies, and procedures to be followed in the operation of the Shared Asset. It sets realistic expectations, defines responsibilities, and assures accountability. It does not, nor can it, assure the continued financial success or economic benefit of the Shared Asset. That achievement is, of course, the common goal of many of the stakeholders. But it will give those who chose to continue the Shared Asset the best chance to do so, while helping to reinforce the bonds of family and perpetuate the legacy of the wealth creator.

The Plan addresses the critical elements that determine the use, enjoyment, and generational transition of the Shared Asset, including:

- Ownership – today, tomorrow and over time
- Governance – policies and procedures that determine long term decision-making with respect to the Shared Asset



- Management – day-to-day operations of the Shared Asset
- Compensation – of those who manage and maintain the Shared Asset
- Profit allocation – economic return to owners
- Communication – to all Stakeholders on information, decisions, and performance
- Withdrawals and removals – who stays and who leaves the ownership group
- Allocation of risks and rewards – economics usually reflect a fair risk/reward ratio
- Conflict resolution – disagreements can be managed

Every Plan, whether in business or in families must establish recognizable milestones and benchmarks by which the success of the Plan can be measured. Furthermore, the Plan must have regular periods of review and assessment, which may be shorter in the early years (e.g., three years) and extend longer (e.g., five years), after the routine, procedures, and systems have been tested and matured.

The Plan must contain a procedure by which it may itself be changed and how and by whom such change will be implemented.

Please note, that when the Shared Asset is a family business, there will undoubtedly be many unique characteristics of the relationship. The Family Shared Asset Ownership Plan can, but often does not include the family business. A separate strategic plan for the family business is recommended in that event.

+++++

At the First Foundation Inc., we are concerned not just with the tax and economic consequences of wealth planning, but with the impact of that planning on the lives of those for whom the wealth was intended to benefit. Our planners, investment advisors, bankers, and trust officers see the results of both effective and ineffective planning. We are pleased to offer you our insight, experience, and perspective.

To contact the authors, please call the toll free number at 866-833-1112.

The Family Wealth Institute is a project of the First Foundation Inc., a comprehensive wealth management firm. We provide banking, trust services, financial planning, family strategic planning and skill training, foundation planning and full back-office services. First Foundation Advisors, is a wholly owned subsidiary of First Foundation Inc.