Dividing Crop Allotments, Quotas and Bases

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DIVIDING CROP ALLOTMENTS, QUOTAS AND BASES
— by Neil E. Harl*

The task of dividing crop bases, quotas and allotments when farms are divided and transferred is a significant and often an important part of the property transaction.1 The division of bases, quotas and allotments is governed by statute2 and regulation.3 Ideally, the rules should be reviewed before final agreement is reached on land transfer and before a contract is executed if there are bases, quotas and allotments involved that are economically important.

Statutory guidance

The statute specifies that in any case in which the ownership of a parcel of land is transferred from a larger tract, the acreage allotments, base acreages and cropping history are to be divided between the two tracts in the same proportion that the cropland acreage in each parcel bears to the cropland acreage in the entire farm.4 However, the statute states that regulations are to prescribe the method to be used in dividing allotments, histories and crop bases where —

- eminent domain is involved;
- the tract of land transferred is to be used for non-agricultural purposes;
- the parent farm resulted from a combination of two or more tracts of land and records are available showing the contribution of each tract to the allotments, histories and crop bases of the parent farm;
- the county ASC committee determines that a division based upon cropland proportions would result in allotments and bases not representative of the operations normally carried out on any transferred tract during the base period;
- the parent farm is divided among the heirs in an estate settlement; or
- neither the tract transferred from the parent farm nor the remaining portion of the parent farm receives allotments in excess of allotments for similar farms in the community and the allotments are consistent with good land use (but this latter provision does not apply in the case of burley tobacco).5

Methods available

The regulations have identified several methods for dividing allotments, quotas and crop bases.6

Estate method. Under the estate method, the division among the heirs can be made by will7 or by written agreement of the heirs or devisees.8

Designation by landowner. Under this method, the transferring owner may request that the county ASC committee make the division in a manner designated by the landowner.9 The transferring owner and the transferee are to file a signed written memorandum of understanding (see sample below) of the designation with the county committee.10 A statement in the contract of sale is not alone sufficient. Both the transferred parcel and the retained tract must receive or retain, as the case may be, allotments, quotas and bases consistent with similar farms in the same area.11 The parties must identify comparable tracts for both the transferred parcel and the parcel retained by the transferor.

In general, this method cannot be used if the land had been owned for less than three years unless the primary purpose of the transfer is other than to retain or sell quotas, allotments or bases.12 Likewise, this method cannot be used if the transfer is to a federal or state agency by eminent domain.13

In general, this is the method most likely to be used when larger tracts are divided and gives the parties the greatest degree of influence over the division of allotments, quotas and bases.

Contribution method. This method involves the proration of the parent farm's allotments, quotas and bases in relation to the contributions at the time the tracts were combined (within the past six years).14

Contribution-cropland method. With this method, allotments, quotas and bases to the tract being separated from the parent farm must be in the same proportion that the cropland for each tract bears to the cropland for the parent farm.15

Contribution-history method. Under this approach, the allotments, quotas and bases are divided on the basis of the acreage determined to be representative of the operations normally carried out on each tract during a base

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period. Written consent of all interested owners is required for this method.

The regulations authorize an increase or decrease in allotment, quota or base by as much as 10 percent if the owners agree in writing and the county committee determines that the method used did not produce an equitable division.

FOOTNOTES
1 See generally 11 Harl, Agricultural Law ch. 91 (1993); Harl, Agricultural Law Manual § 10.03 (1993).
5 Id.
6 7 C.F.R. § 719.8(a) (1993).
9 7 C.F.R. § 719.8(c) (1993). See sample request form below.

Note that enforcement of the division of a quota between the parties depends on state law. See KcKim v. Kauffman, 424 S.E.2d 11 (Ga. Ct. App. 1992) (failure of farm seller to sign transfer of peanut quota to buyer was breach of contract; court had jurisdiction because A.S.C.S. refusal to transfer quota based solely on breach of contract between buyer and seller).

10 Id., § 719.8(c)(4)(i). A sample memorandum of understanding is provided below.
11 Id., § 719.8(c)(4)(iiii).
12 Id., § 719.8(c)(4)(iv).
13 Id., § 719.8(c)(5).
14 Id., § 719.8(d).
15 7 C.F.R. § 719.8(f).
16 Id., § 719.8(g).
17 Id., § 719.8(g)(2).
18 Id., § 719.8(h).

Memorandum of Understanding

On this ______ day of ______, 19__ the undersigned, __________________ Seller and Buyer, do hereby agree as follows:

1. The Buyer has agreed to purchase certain real property previously owned by Seller, in ______ Township, ______ County, ______, and more specifically described as ______________________________________, containing ______ acres, contiguous to the real property then owned by Seller during that time period as to the most appropriate land use for the subject tract and the comparable tracts.
2. The Seller represents that Seller had owned the subject real property for more than three years.
3. The Seller and Buyer agree that the subject real property has been farmed as part of a larger farming operation by Seller for many years.

CASIES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr.

BANKRUPTCY

GENERAL

EXEMPTIONS-ALM § 13.03[4].

ANNUITY. The debtor was a beneficiary of an annuity purchased by an insurance company in satisfaction of a personal injury judgment against the insurance company. The debtor claimed the annuity as exempt under Fla. Stat. § 222.14. A creditor objected to the exemption, arguing that the exemption should not be allowed for annuity payments of court judgments. In a certified question from the Eleventh Circuit Court of Appeals, the Florida Supreme Court held that the annuity exemption applied to all annuities, including annuities used to satisfy court judgments. The exemption was allowed. In re McCollam, 986 F.2d 436 (11th Cir. 1993).

COURT AWARDS AND SETTLEMENTS. The debtor claimed payments from a structured wrongful death settlement as exempt under Va. Code § 34-28.1. The court held that the statute applied only to the proceeds of awards and settlements from personal injury actions, which did not include wrongful death actions. In re Cassell, 151 B.R. 78 (Bankr. W.D. Va. 1993).