How should three siblings handle $1 million estate?

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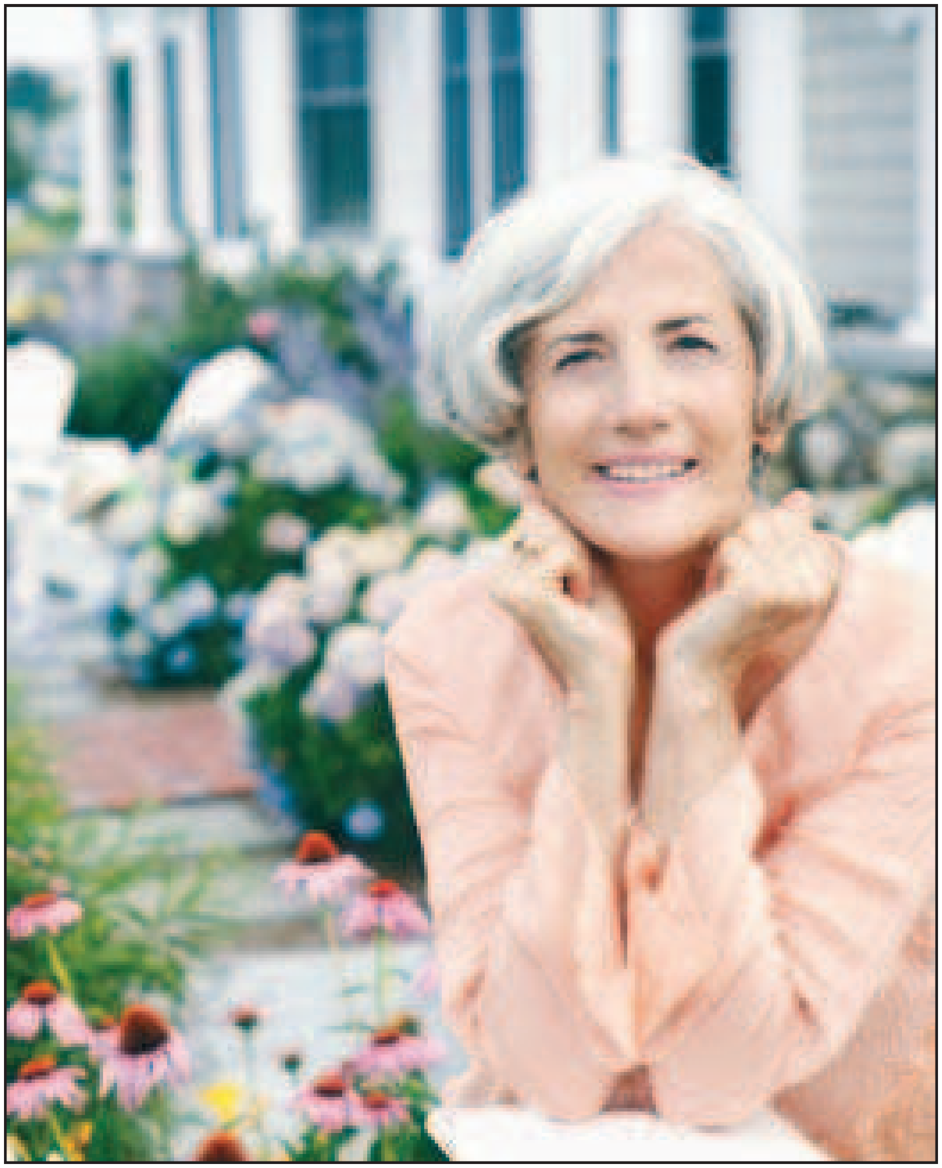

Q: My mother, almost age 97, has owned farm property that she has leased out for the last 30 or so years. She receives about $50,000 per year from a neighboring farmer. The value of the farm property, if sold, has been estimated at nearly $1,000,000. No house is located on the property.

My mom has three kids and we live across the U.S. Our mom's estate will be split evenly among the three of us, but we are in our '70s. There are also seven adult grandchildren between the three of us.

My question is, upon our mother's passing, does it make more financial sense to continue to rent the property, splitting annually the rent or sell the farm and split the sale amount?

A: We tip our hat to your mom and the investment she made many years ago. It seems like it has paid off. Given your situation, and the different options in front of you, we think that you should talk to an estate planner.

There are just too many variables in your question to give you the right answer. For example, if you and your siblings are well off or don't need the proceeds from the sale of the farm, it might be better to have the proceeds go to the grandchildren or even great grandchildren. The adult grandchildren may have their own children going to college and the money from the sale of the land could help pay for that generation's college expenses.

And then, while some family members may need the cash now, others may not. All of these factors will influence what everybody wants to do with the property. Also, given the supposed value of the farm, you and each of your siblings are probably entitled to about $333,333, plus or minus closing expenses or a sales commission, etc.

Each of you may have different federal income tax situations and that money could impact each of you quite differently. For example, if you or your siblings are on Medicaid or will be on Medicaid, that inheritance will go toward paying Medicaid.

As far as continuing to rent the property, you could do that, but when your mother dies, if this is her only property in her estate, at or around her death, the property's value will determine what you and your siblings' basis will be in the land for federal income tax purposes.

So, if your mother purchased the land for $100,000 and now it's worth $1,000,000, your mother's estate wouldn't have to pay tax on the gain and you and your siblings would inherit the property and own it at the stepped up basis of $1,000,000. That means that if you immediately sold the land, you and your siblings would owe no federal income or capital gains tax on the sale and your mother's estate would owe no capital gains on the appreciation of the land she held over the many years.

But if you keep the property, and continue to collect rent, there will be other tax implications upon its eventual sale. But it could be that the depreciation you'd be able to take on a $1 million rental property would be more valuable to some of the siblings than others, and then there might be other taxes to pay (like the recapture of that depreciation or capital gains tax) down the line.

Then there are the non-financial issues to contend with: What is your mom's intention as to who should get the benefit of the property a fter she's gone, what the money should be used for, and any other wishes she might have?

Lastly, if you decide to keep the property, the rental income might be a good return given the value of the property ($50,000 on a $1 million property is 5 percent, but there are likely some expenses against that amount, like property taxes), but all three of you have to be in agreement on this keeping the property as a rental going forward.

What happens when one of you wants to sell but the others don't? Will you have some sort of "shotgun" clause in a new partnership agreement, where one person will be bought out by the other two? We're sure that the one thing your mother wouldn't want is for her children and grandchildren to be squabbling over an inheritance, which is what would happen if there is no agreement on how to proceed with investments.

You and your siblings should start thinking about these issues. Talk to your mom, if you can, and get her take on it. After all, it's her land, her final gift to you, and her intentions should guide you to the correct conclusion.

(Ilyce Glink is the creator of an 18-part webinar+ebook series called "The Intentional Investor: How to be wildly successful in real estate," as well as the author of many books on real estate. She also hosts the "Real Estate Minute," on her YouTube channel. Samuel J. Tamkin is a Chicago-based real estate attorney. Contact Ilyce and Sam through her website, ThinkGlink.com.)