

Estate planning for forest landowners



Yanshu Li, Ph.D.
Associate Professor of Forest Taxation and Economics
Yanshu.Li@uga.edu

 UNIVERSITY OF GEORGIA
Warnell School of Forestry & Natural Resources

1

What is forest estate planning?

 UNIVERSITY OF GEORGIA
Warnell School of Forestry & Natural Resources

2

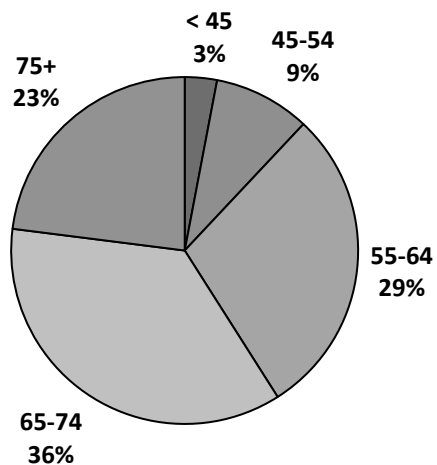
Why is it important?

“In this world nothing can be said to be certain, except death and taxes.”

- Benjamin Franklin, 1789

3

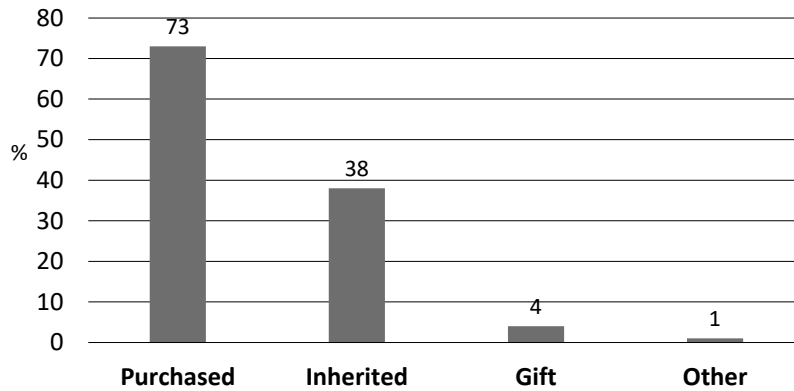
Age profile of Georgia forest landowners, 2018



Source: USFS NWOS for Georgia (2018)

4

How did you receive the property?



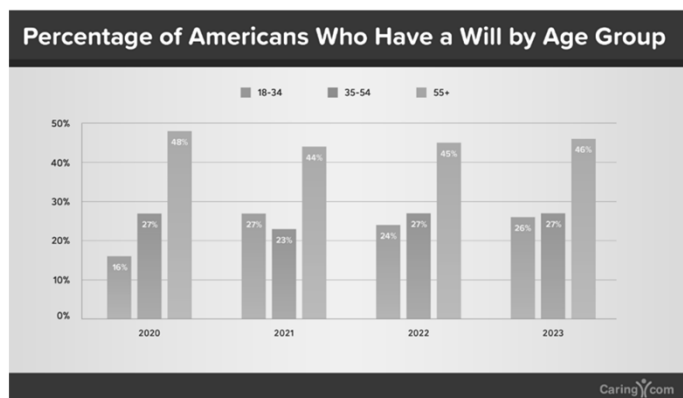
Source: USFS NWOS for Georgia (2018)

 UNIVERSITY OF GEORGIA
Warnell School of Forestry & Natural Resources

5

Do you have an estate plan?

- **67% of Americans think they have no estate plan**



Caring.com

6

Truth is ...

- Everyone has one
- If you don't have your own, the state has one for you— but you might not like it...

Today's topics

- Goal of estate planning
- Estate taxes
- General estate planning tools
- Forestry-specific estate planning tools

Estate planning

- Primary goal is peace of mind
- Minimize/eliminate transfer taxes
 - Estate tax
 - Gift tax
 - Generation-skipping transfer tax

Estate tax

- Gross estate: fair market value of all assets
- Less: deductions
 - Spousal (unlimited)
 - Charitable (unlimited)
 - Estate expenses (actual)
- Taxable estate
- Tentative tax due
- Less, credit (excludable amount)
- Estate tax due

Estate tax (cont.)

- Applicable exclusion amount to \$10 million (indexed for inflation, \$ 12.92 million per individual or \$25.84 million per couple for 2023)
- Tax rate of up to 40% on taxable estate over the threshold
- Expires 12/31/2025 (revert to \$5 million adjusted for inflation)
- Surviving spouse gets the unused exclusion amount (estate and gift tax)
- Stepped-up basis

Gift tax

- Annual exclusion is \$15,000 per recipient (indexed for inflation, \$17,000 for 2023)
- \$34,000 per couple
- Lifetime estate and gift tax exemption amount (\$12.92 million per individual)
- 18-40% tax rate on gifts over the lifetime threshold

If estate taxes aren't the issue, then what is?

- What do you want your forests to be?
- Transfer forest operation, not just the property
 - bringing in the next generation so they know what to do when you're not around
- Divide your assets according to your wishes
- Avoid family fights

Basic estate planning tools

- Will
- Trust
- Marital deduction
- Gifting assets while alive
- Owning property through business and passing on to heirs
- Jointly own property

Jointly owned property

- Ownership
 - Joint with right of survivorship
 - Not affected by a Will
 - Not a probate asset
 - Tenants in common
 - Can be passed according to a Will
 - Probate asset
- Potential problem (life estate)

Non-probate assets

- Property owned jointly with right of survivorship
- Retirement accounts
- Life insurance proceeds
- Life estate
- Trust estate

Basic estate planning tools (cont.)

- Powers of attorney
- Living wills
- Life/long-term care insurance

Will (Georgia)

- 14 years or older
- Competent to create a Will
- Must be writing, signed by the testator and two witnesses (can't be interested witness)
- Self-proving
- Can be changed any time before testator's death

Trust

- A legal arrangement between a grantor and trustee that sets management and distribution criteria
 - Grantor funds the trust
 - Trustee has legal title to the assets
- Assets are held for beneficiaries

Forestry-specific estate planning tools

- Special-use valuation
- Living gifts plus business entity
- Use installment sale to facilitate gifts
- Conservation easement

Special-use valuation

- Reduces gross estate
- Applies to real property used in a farming business (include forestry), or closely held business
- Valued at current use rather than highest and best use
- Tax savings recaptured if use changes in 10 years

Living gifts through business entity

Example

Use installment sale to facilitate gifts

Example

Conservation easement

- Private contract between landowners and qualified organization (easement holder)
- Terms of contract are negotiable
- Permissible and restricted uses
- Development is the major restriction

Conservation easement

- Continue current use of property in perpetuity
- Benefit to your community
- Reduce your estate
- If donated, federal income tax charitable contribution, state income tax credit
- Terms of contract are negotiable
- Exclusion from taxable estate of 40% of value of the eased land, up to \$500,000
- May reduce property tax

Estate tax planning team

- Forest landowner
- Attorney
- CPA/tax advisor
- Institutional trust officer
- Forester
- Chartered life underwriter

Additional sources

- Estate planning for forest landowners: what will become of your timberland?
- Ties to the land