

CHAPTER 1

STARTING A FARM OR RANCH BUSINESS IN IDAHO



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STARTING A FARM OR RANCH BUSINESS IN IDAHO

UNDERSTANDING LAND TENURE TYPES

Securing land is one of the greatest challenges for farmers and ranchers across all scales of production. Land tenure refers to the way people obtain and hold land, usually through ownership or a lease agreement. Depending upon the life cycle of the farm or ranch business, the types of land tenure utilized may change. Whether land is accessed through purchase, leasing, or through a gift or succession process, secure land tenure is vital for a farm or ranch business. Secure land tenure requires a stable relationship with the land over time. Conditions necessary for stability include affordability, compatibility with land use laws, lease agreements, deed terms and access to capital, infrastructure, and other resources necessary to achieve your personal and business goals.

Whatever method you utilize to secure land for your business, each will have legal, political, and business considerations. Land use laws, such as zoning laws, dictate how a property can be used or managed. Landowners are responsible for ensuring the land is managed in accordance with those laws. The requirements of tenants are outlined in lease agreements.

LEASING

Leasing, or renting, land is where you enter into an agreement with a landowner to farm or ranch on property that does not belong to you. Land can be leased from a variety of owners including individuals, for profit and non-profit businesses, from public entities, or from a conservation organization such as a land trust. How you negotiate and set the terms of the lease will vary depending on who owns the land. Leasing from private owners means negotiations will just be taking place between you as the farm or ranch business owner and the owners of the land. Lease agreements on public land may be more rigid in their requirements. Land un-

der conservation or agricultural easements, often secured through your local land trust organization, may involve negotiations with a board of directors and come with specific easement requirements that could restrict how you are able to utilize the land for your farming or ranching practices.

Lease agreements can be oral or written, short or long term (1 year, 5 years, etc.) and can have different payment arrangements. A well-written lease not only details the length of the lease and financial arrangements between parties, but also details communication flow, management responsibilities of both parties, ownership of permanent and semi-permanent infrastructure and provisions for termination. Generally, oral leases are less favorable as they can lack clarity on the rights and responsibilities of both the landowner and the lessee, might be terminated without warning, and are hard to enforce. Ground leases, which can last 50, 75 or up to 99 years, provide opportunities for people to invest in real estate without the commitment of hands-on property management. At the end of a ground lease period, all the improvements to the property, including buildings and other permanent infrastructure, are turned over to the property owner.

Benefits of Leasing

Leasing allows you and your business to grow with less risk and more flexibility than you would have with a mortgage. Instead of investing capital in a land payment, leasing frees up capital to invest in equipment, livestock, and movable infrastructure. Similarly, leasing allows you to slowly grow your business as you develop production and management skills. As a shorter-term commitment, leasing allows for flexibility where you can try out different farm sites or market areas without being locked into a permanent location by a loan. Often

with leases you can barter for a reduction in rent in exchange for goods or services provided to the landowners.

Drawbacks of Leasing

The opposite side of the flexibility of leasing is the lack of security. The property owners may decide to sell, or other factors could change your status as a tenant. However, good contracts, (see *Fact Sheet 1.2 Pursuing Land Tenure for more information*) can help mitigate this risk. With leasing, you may have to walk away from serious investments you might have made in soil improvement, weed mitigation, or infrastructure. Leased land may or may not come with the option to live on site. Be sure to factor in travel costs when making business projections.

PURCHASING

Purchasing land is often thought of as the gold standard for land tenure in farming or ranching businesses. Owning the land provides security, the ability to build equity in the land, to secure loans against the property value and grow at a faster pace, and to reap the long-term benefits of investment in the property's improvement. If you purchase from another farmer, you can gather valuable information about the property such as any frost pockets, how the land was managed previously, trouble spots, or other intel. However, land is expensive, and it can be difficult for farms or ranches to qualify for a bank loan. If you are buying a house with land and intend to farm, a traditional home loan may not include provisions for agricultural production. Always discuss this with your lender before moving forward!

SUCCESSION

Farmland transfer often occurs through a combination of succession and inheritance. Farm succession or transfer is a process, not an event. Though this method of land transfer is often an intergenerational transfer within a farm family, that is not always the case. Many farmers and ranchers would be delighted to see their land continue to be used

in agricultural operations, and not all have children interested in or available to succeed them. Land transfer generally involves both succession planning and estate planning. Succession planning is the transfer of farm or ranch management and estate planning addresses the transfer of farm or ranch assets.

Inheriting land or transitioning land to a new generation of producers may include a gradual transfer of land and/or assets, lease agreements, purchase agreements and considerable negotiations with non-farming family members. Coming to agreement on the terms of a transfer requires self-reflection, planning and trust between all parties involved. The final provisions of a transfer are driven not only by what the incoming and outgoing generations value and desire, but also by what the elder or exiting generations need and what the incoming farmers can afford. There are many courses on land succession to help navigate this experience while honoring the values, needs and expectations of all parties involved.





STARTING A FARM OR RANCH BUSINESS IN IDAHO PURSUING LAND TENURE

Before you begin pursuing land options of any kind, it is important to be clear about your own values, vision, and goals and those with whom you work and share your life. Values reflect the beliefs that guide your actions and your life – at work, on the farm, with family, with friends and in your community. Your vision is a statement that describes where you are headed and what you want to achieve. Your goals are the concrete actions, or steps, you will need to take to reach your vision. Identifying your values and developing a written vision and goals statement, and understanding your current and future financial position, will allow you to evaluate the land tenure options available to you.

FINANCES

A major factor affecting your land tenure options is your financial position. Assessing your current financial position and developing a business plan are key prerequisites for secure land tenure – especially if your goal is to purchase land. It is important to both understand the costs of buying, leasing and even inheriting land and the costs of maintaining the land over time. Do a projection of what you need to earn to have your business be viable, and a projection of the business' earning potential. Assess what capital you have already in hand for things like a down payment or significant land improvements like fencing. What tools or equipment do you need to begin your business, and what do you already have? Land values are affected by things like water availability, location, how dense the competition is in the area, existing improvements on the property, and property taxes. Be prepared to do multiple projections of your finances based on these factors.

TOURS & INTERVIEWS

Before you make any purchases or sign any agreements, look at a lot of land. Farm tours hosted by your local extension office or soil and water conservation district and agritourism events are great opportunities to visit existing farms or ranches. When on a tour, ask lots of questions. Conversations with other farmers and ranchers is one of the most valuable things you can do to inform your land decisions. What do they love about their set up, wish was different, what decisions did they make, and what did they think was most important for their operation?

ASSESSING LAND

If you find land you are interested in, ask the owners for permission to do an onsite soil assessment and to take a soil sample to send to a professional soil testing lab. Walk the property, paying close attention to what weeds are present and variations in the area that can lead to microclimates. Ask about the site's history and how it has been managed in the past. What irrigation is available, what are the water rights of the property? Consider what infrastructure is already present and what you might have to invest. Is the location suitable for your markets or home? Can you live on site? Who are your potential neighbors and are they supportive of a farm or ranch business being in their neighborhood? Look for experienced farmers in the area who offer site assessment consulting services and contract them to provide a site assessment and discuss marketing options available in the area.

NEGOTIATIONS

Whether you are negotiating a lease agreement or a land purchase, be honest with yourself and what you can afford. Overextending yourself with land payments will limit the amount of capital you have to invest in and operate your farm. If you are nego-

tiating a lease, consider what services you can provide to reduce the cost. These can include a CSA share, land management practices, livestock care, pasture or weed management.

LEASE AGREEMENTS

Always get a written lease agreement when renting land. A handshake is not enough. Invest in an attorney to review your lease agreement before signing—it is worth the money! Remember: a lease can change in the future if both parties agree, but you want to start on the same page. Check examples of existing lease arrangements and work from there. Sample leases, highlight important things, create a list of questions or discussion points for you and the landowner. As you review sample leases, make a checklist of the provisions you would like to see in your lease agreement. Use this checklist as a tool for discussions with the landowner.

A Good Lease Includes:

- ✓ A preamble describing what the lease is about.
- ✓ Description of the leased property.
- ✓ Term (length of the lease)
- ✓ Rent. Cost and payment provisions (monthly, once a year, etc). Services provided by the lessee. If you are providing services or goods, make note of their monetary value in the lease and how they will be documented or tracked.
- ✓ Who is responsible for which aspects of operating costs and property maintenance.
- ✓ Notes on indemnification clause and/or liability insurance (is the property owner liable for injuries that occur on site?)
- ✓ Who is responsible for taxes, organizing assessments?
- ✓ A description of the initial condition of premises (where you note things like fencing, barns, weeds, etc)..
- ✓ Protocols for subletting or transferring of the

lease.

- ✓ What happens if the tenant defaults, or the landowner wants to sell the land?
- ✓ Is there an expectation that the lease will continue in the event of a land sale?
- ✓ Living arrangements—do they exist and who is responsible for payment and upkeep of them?
- ✓ Does the landowner allow visitors to the farm or ranch? Can they camp overnight?
- ✓ Animals / pets and livestock on the farm.
- ✓ Who is required to mitigate noxious weeds?
- ✓ Who maintains any irrigation ditches present?
- ✓ Can you store things on the land, and if so, where?

LAND RESOURCES

While agricultural land for sale is often listed with a real estate firm, there are many local resources that can help you identify land that may be available for sale or lease. When you begin looking for land, reach out to your local land trust agency, your local conservation district, food and farm organizations (especially those local to your area), your county's extension office, as well as local realtors, Craigslist, Facebook groups, and cold calling landowners of vacant properties through the county assessor's office. The ISDA's Farm and Ranch Center has an Idaho Farm Link resource for land seekers and owners to connect. Land for Good is another land seeker resource, though not specific to Idaho.

PURCHASING FARMLAND

Advance planning for purchasing farmland is essential. Purchasing farmland requires understanding both your personal and business financial resources and your income potential. Current land prices often require a consistent off-farm source of income to meet land payments, especially in the first years of doing business. Purchasing land is a long-term and costly commitment. In preparation

for meeting with a loan officer, it is important to understand your financial position. To do this, you will need to locate your last three years tax returns and create several key personal and business financial statements: a balance sheet, income statement and a cash flow statement. A balance sheet is a snapshot detailing your assets, liabilities, and net worth at a specific point in time. An income statement, also known as an earning statement or profit and loss statement, details your income and expenses and calculates your net income over a specific time period (such as quarter or year). Cash from financing is not included in your income statement. The third financial statement you will need is a cash flow statement or cash flow budget (a forward-looking cash flow statement). The cash flow statement includes all your sources of cash, including from investment and financing activities and all of your direct cash needs throughout the year. Creating a cash flow statement will allow you to see how your cash flows vary by time of year and your cash flow budget will help you plan for addressing any cash flow shortfalls. Knowing your financial position will allow you to approach a lender with the information needed to enter into a discussion about obtaining financing for a land purchase.

STARTING A FARM OR RANCH BUSINESS IN IDAHO

BUSINESS STRUCTURES

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Once you've secured land and created a business plan, you'll want to decide on a business structure. The structure of your business will affect how personally liable you, as the owner, are for business debts, what your taxes look like, and how you operate. Idaho food and farm businesses are most often structured as sole proprietorships, limited liability companies, or corporations. Other types of entities include general partnerships, limited partnerships, and limited liability partnerships. Below is a basic overview of these business types.

SOLE PROPRIETORSHIP

If you operate your business by yourself and you do not take any steps to create a separate legal entity, your business will be deemed to be a sole proprietorship. A sole proprietorship, sometimes called an individual proprietorship, is the most common form of business ownership and the easiest to enter and operate. Sole proprietorships are limited to one owner and are not considered a separate entity from that owner, meaning your personal assets and liabilities are the same as the business assets and liabilities. As the owner of a sole proprietorship, you are personally liable for any business debts, loans, or liabilities, and your creditors can go after your personal assets to satisfy those obligations. The income and expenses of your sole proprietorship are reported on your personal tax return. Sole proprietorships end upon the owner's death or bankruptcy and assets are distributed in accordance with the owner's will or in accordance with a court order.

Partnerships

Partnerships are a form of business ownership that involves two or more people. There are three main kinds of partnerships: general partnerships, limited partnerships (LP), and limited liability partnerships

(LLP). Partnerships may have unlimited owners and necessitate the development of a Partnership Agreement.

General Partnership

A general partnership is similar to a sole proprietorship in that the owners of the business are each personally liable for the business debts and liabilities. That includes liability for debts and liabilities incurred by your partners. The owners pay taxes on profit shares, but no tax is paid on the partnership itself.

Limited Partnership

A limited partnership is a combination of at least one general partner (see above), and at least one partner with limited liability. Limited partners are not personally liable for the debts of the partnership, so long as they are not taking an active role in the management of the partnership.

Limited Liability Partnership (LLP)

This partnership type protects individual partners from being personally liable for the acts of the partnership, or the acts of their partners. The tax structure for a limited liability partnership is the same as the general partnership.

Before entering into a partnership, all parties should be aware of, and in agreement on, how much liability they will personally assume, what personal investments they will make, how profits and losses will be shared, the salary or drawing account arrangements for each partner, restraints on each partner (if any), and how or when the partnership will be terminated.

LIMITED LIABILITY COMPANY (LLC)

LLCs can be taxed like a sole proprietorship (if one owner), partnership (if multiple owners), or corporation (if the owners so choose) and provide the liability protection of a corporation. Owners or members are not personally liable for the business's debts unless they have personally guaranteed the debt, or if individual action, outside of being a member, has made them liable. Essentially, members only risk what they have financially invested in the LLC. Multi-member LLCs should have an Operating Agreement that provides for allocation of profits and losses, determines how management decisions are made, and includes provisions for termination.

CORPORATION

A corporation is a legal entity that is distinct from its owners, and owners are not personally liable for business debts by being owners. Corporations are created by filing documents with the Secretary of State, known as the Articles of Incorporation. Corporations must also adopt corporate bylaws. Corporations may be perpetual and continue after the death of an owner or shareholder.

C Corporation

Corporations, sometimes called c-corps, are taxed differently than sole proprietorships and partnerships. The company files a tax return, and if the owners (shareholders) receive a dividend from the corporation, tax on that income will be taxed by the shareholder. C-corps may have unlimited owners.

S Corporation

An S corporation, or S-corp, is a tax designation designed to avoid the double taxation that occurs in C-corps. Corporations and LLCs may elect to be taxed as S-corps if they qualify. In an S-corp, profits (and some losses) can be passed to owners' personal income without being subject to corporate tax rates. S-corps are limited to 100 or fewer owners and have other restrictions. Check the IRS website for specific requirements.

CONSIDERATIONS

Partnerships, LLCs and corporations are formed by registering with the Idaho Secretary of State's office. All entity types must file an annual report with the Idaho Secretary of State's office.

Choosing a business structure is an important aspect of owning a farm or ranch business. In some cases, farm or ranch operations are structured as multiple businesses with the same or different owners or shareholders. For instance, one business may own the land and non-movable infrastructure of the farm while another entity owns the brand, managerial and disposable assets of the farm including crops and livestock. Clarifying your short- and long-term goals for both your land and your farm business will help you determine which business entity(ies) will work best for you and your farm partners and ultimately support the transition of your farm or ranch to the next generation.

REMEMBER...

This fact sheet is not intended to be a comprehensive list of business entity types nor is it a substitute for legal or tax advice from your specific advisors. When choosing and forming a business entity, owners ought to consult with legal, accounting and tax professionals with expertise in farm and ranch businesses and farm succession planning.

QUICK CHART COMPARISON

Business Structure	Ownership	Liability	Taxes
Sole Proprietorship	One Person	Personally Liable	Personal Tax
General Partnership	Two or More People	Personally Liable	Personal Tax
Limited Partnership	Two or More People	General Partners are Personally Liable, Limited Partners are Not	Personal Tax
Limited Liability Partnership	Two or More People	Owners are Not Personally Liable as Owners	Personal Tax
Limited Liability Company	One or More People	Owners are Not Personally Liable as Owners	Personal tax or Corporate Tax
C Corporation	One or More People	Owners are Not Personally Liable as Owners	Corporate Tax and Personal Tax
S Corporation	One or More People	Owners are Not Personally Liable as Owners	Personal Tax





STARTING A FARM OR RANCH BUSINESS IN IDAHO

REGISTERING WITH GOVERNMENT ENTITIES

Once you've decided on a business structure and completed any associated paperwork for its creation, you'll need to register your business with federal, state, and local agencies.

NAME REGISTRATION

After choosing your business type, and before engaging in business activities, limited liability companies, corporations, and other types of limited liability entities will need to register with the Idaho Secretary of State. Sole proprietorships and general partnerships do not need to register to be formed, but those businesses can file an Assumed Business Name with the Idaho Secretary of State.

APPLYING FOR AN EIN NUMBER

An EIN, or Employer Identification Number, is a taxpayer identification number for businesses issued by the Internal Revenue Service (IRS). EINs are used for tax administration purposes and are required for most businesses. Businesses can acquire an EIN through the IRS's website as soon as the entity has been registered with the Secretary of State.

REGISTERING WITH LOCAL AND STATE AGENCIES

Your business will be subject to local, state, and federal regulations. As the business owner, it is your responsibility to ensure that your business is in compliance with applicable local, state, and federal statutes and regulations. Make sure to contact the regulatory entities relevant to your business. The county or city clerk's office is a good first contact to start researching the local requirements and regulations of your business. Specific regulations vary depending on your location and business type, but all businesses must:

- ✓ Meet zoning ordinances. Zoning sometimes restricts commercial activities to certain areas. This can include regulations on the use of advertising signs, lighting, parking, on-site sales, limits on type and number of farm animals and business use of adjacent buildings and/or your home.
- ✓ Building permits are necessary if you are erecting a new building or remodeling an existing one. Permits may be required for erecting temporary structures including hoop houses and greenhouses.
- ✓ Businesses that are required to collect sales tax must obtain an Idaho Seller's Permit by completing an Idaho Business Registration with the Idaho State Tax Commission (<https://tax.idaho.gov/online-services/business-registration/>).
- ✓ Obtain an Assumed Business Name (sometimes called a DBA or "doing business as") from the Idaho Secretary of State if you plan on doing business under a name other than your own or the official name of your business.



STARTING A FARM OR RANCH BUSINESS IN IDAHO

LICENSES & PERMITS

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Business in Idaho is regulated and/or licensed by multiple entities, spanning the local, state, and federal levels. There is not one statewide business license issued in Idaho. Exactly which kinds of licenses or permits your business requires depends upon your business type, the enterprises on your farm or ranch, and your location. Many licenses are required before beginning business operations. Paying a fee to obtain a license is common and sometimes an inspection of the business site or equipment is required.

You as the owner are responsible for ensuring your business is licensed properly and following applicable statutes and regulations. Your City or County Clerk and the Idaho Small Business Development Center can help you identify what licenses and permits are applicable to your business. Below are a few licenses commonly applicable to farm and ranch businesses. This list is not meant to be comprehensive and may not include all of the licenses required to operate your business. Remember, it is always wise to investigate the licenses needed before you start operating your business or add a new enterprise to your business.

LICENSES

Commercial Vehicle Licensing

Visit the county assessor's office for help with commercial and farm vehicle licensing. The Department of Motor Vehicles provides commercial and operator's driver's licenses.

Farm Labor Contractor Licensing

Businesses hoping to hire migrant or seasonal agricultural workers must apply for a Farm Labor Contractor License. (See Fact Sheet 2.7 *Farm Labor & Contractors for more information*).

Food Safety Related Permits

See Chapter 5 *Food Safety* for regulations and requirements for food processors.

Specialty Licenses

The Idaho State Department of Agriculture requires and issues licenses for many agriculture-related businesses. Businesses usually licensed and/or regulated include: beekeepers, dairy product processors and dealers, egg distributors and graders, farm products dealers, livestock dealers, pesticide dealers, plant industries, restaurants and food handling businesses, seed companies, and transportation businesses. (See Fact Sheet 4.4 *Value Added & Processed Products for more information*).

Pesticide Applicator License

Federal law requires any person who applies or supervises the use of restricted use pesticides (RUPs) to be certified in accordance with EPA regulations and state, territorial and tribal laws. The Idaho State Department of Agriculture is the certifying agency in Idaho. You must be certified in Idaho, and in each area of tribal land where you make RUP applications. Additionally, Idaho requires all commercial applicators, not only those using RUPs, to be certified.

REMEMBER...

Keep in mind that rules and laws change. It is always wise to check with the agencies responsible for the most current information on business licensing, permits, and legal obligations. Remember to check at the federal, state, and local levels.



CHAPTER 1: STARTING A FARM OR RANCH BUSINESS IN IDAHO

WHO CAN HELP

IDAHO SPECIFIC RESOURCES

University of Idaho Extension <https://www.uidaho.edu/extension>

Cultivating Success Idaho

<https://www.cultivatingsuccess.org/idaho>

Entrepreneurship Law Clinic (ELC)

<https://www.uidaho.edu/law/academics/practical-skills/clinics/entrepreneurship-law-clinic>

Idaho State Department of Agriculture (ISDA) <https://agri.idaho.gov/main/>

Idaho Farm and Ranch Center

<https://agri.idaho.gov/farmcenter/>

Idaho Farm Link

<https://idahofarmlink.org/>

Idaho Department of Commerce

<https://commerce.idaho.gov/Idaho-business/grow-your-business/>

Idaho Secretary of State's Office

<https://sos.idaho.gov/business-services-resources/choosing-a-business-entity/>

Idaho Small Business Development Center

<https://business.idaho.gov/legal-structure/>

HELPFUL ORGANIZATIONS

AgWest Farm Credit Young, Beginning or Small Farmer Programs

<https://agwestfc.com/financing/specialized-programs/young-beginning-or-small-financing>

Farm Commons

<https://farmcommons.org/>

Farm Services Agency

<https://www.fsa.usda.gov/>

Farm Loan Programs

<https://www.fsa.usda.gov/programs-and-services/farm-loan-programs/index>

Internal Revenue Service (IRS)

<https://www.irs.gov/businesses>

International Farm Transition Network

<https://www.farmtransition.org>

Land for Good

<https://landforgood.org>

Natural Resource Conservation Service

<https://www.nrcs.usda.gov/>

Service Corps of Retired Executives (SCORE)

<https://www.score.org/>

United States Department of Agriculture (USDA)

<https://www.usda.gov/>