



Keeping the Family in the **FAMILY BUSINESS**

A THOROUGH SUCCESSION PLAN CAN HELP ENSURE YOU MEET THE GOALS YOU SET FOR YOUR BUSINESS, YOUR FAMILY AND YOURSELF.

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BUSINESS SUCCESSION planning is important for almost all enterprises, but it is especially significant in family-owned and closely held companies, especially since the business is often the primary source of income and family wealth for the owner. A well-thought-out business succession plan can help ensure that the full value of the assets tied up in the firm are realized, providing financial security now and in the future, and making sure your wishes for the continuity of the business meet your business and personal goals.

STARTING TO THINK ABOUT SUCCESSION PLANNING

Business succession planning is a disciplined process, and one-size-fits-all approaches don't work. The plan will

vary greatly depending on who the current owners are and whether company ownership will be retained within the family, transferred to company insiders or sold to an external third party. Among

many other issues, the planning process should take into account a wide range of dynamic variables including roles, relationships and skills, personal goals and expectations, health and financial circumstances, market conditions and the economic environment.

While business owners often consider a sale to a third party or to company insiders, their first preference is often to see the company move to the next generation in some manner.

Family businesses face unique challenges when family members are also employees, partners or co-owners. The transfer of ownership from one family member to another also can be complicated because it comes with a number of personal as well as business challenges. It requires that the current owner (generally a parent) be willing to cede some form of control to the new owner (generally their child or children). And it also includes the process of selecting the best person to be in control.

Proactive business succession planning not only helps in the process of identifying potential family successors, but it also facilitates and prepares them to take over the business in terms of skills, knowledge and financial readiness.

CONSIDER THE FINANCIALS

Some key financial issues must be considered in the case of transfers to family members. One of the first considerations must be the impact on your wealth and cash flow. If the company is transferred by gift, you must also be concerned with the impact of any gift tax liability. The tax laws currently allow you to give up to the cumulative amount of \$5.45 million (\$10.90 million for a married couple) of taxable gifts during your life without paying a gift tax. Once that allowed cumulative amount is exceeded, then a gift tax will be due in the amount of 40% of the excess.

One strategy that can help minimize the gift tax liability is to sell the company instead of gifting it. This eliminates any gift tax, but raises other potential issues. If you sell the company to family members, they must have the cash (or financing) to acquire the business, while

you must have sufficient cash to pay any capital gain taxes triggered by the sale.

In some cases, the future success of the business might better be served by selling it to management, selling it to or merging it with a third party or taking the company public. If you sell the company to management or a third party, however, similar issues of cash flow arise. But one possible advantage of selling to a third party is that frequently this resolves both who will own and who will manage the company, which can be a more difficult and emotional topic when the business is kept in the family.

The succession planning process can help you weigh your options and prepare the business accordingly, including properly valuing its worth, conducting due diligence on potential successors, and seeking professional banking, legal and accounting guidance as well as personal wealth management guidance.

WRITING THE PLAN

The plan itself will take time to develop, but the effort is important. The effort you put into the process and methodology can make the difference between a hasty, unplanned and potentially disruptive transition and a meaningful transition plan that meets the best interests and needs of the business, yourself and your heirs. It is always best to proactively decide upon the type of transaction, the type of tax and the timing rather than allowing life events, liquidity needs and the tax code to select for you.

Business succession plans are living documents. A new product, a departing partner or a new tax law can quickly render obsolete a business succession plan. You should review your plan on a regular basis—preferably every time you review your personal estate plan to ensure that both documents are in sync—and update as needed. It is impossible to solve all questions and address all uncertainty at one time. Placing the ownership of business assets in a flexible mechanism (such as a revocable trust) can complement other succession documents (a will, buy-sell agreements), and thus ensure that steps blend into a seamless plan. **CA**

THE CHANGING LANDSCAPE

BUSINESS SUCCESSION IS A CONCERN.

45%

of business owners have a succession plan in place. Of those who do not have one, 50% think they do not need one because they do not plan to retire soon; 24% say that while they have no formal plan, they have discussed their wishes with family members and colleagues.

U.S. Trust *Insights on Wealth and Worth*®, 2012.

WOMEN'S ROLES ARE CHANGING.

47%

of the overall labor force is female.

Labor Force Statistics from the Current Population Survey, 2011: *Employment status of the civilian noninstitutional population 16 years and over by sex, 1971 to date*, Bureau of Labor Statistics, 2011.

WOMEN EARN MORE DEGREES.

Women earn between one-third and half of the top three (JD, MD and MBA) professional degrees awarded. And more degrees in general:



*Degrees conferred by degree-granting institutions, by level of degree and sex of student: Selected years, 1869–70 through 2020-2111, "National Center for Education Statistics — Digest of Education Statistics, 2011; "JD. and LL.B Degrees Awarded, 1981–2010," American Bar Association, 2011; "Total Graduates by U.S. Medical School and Sex, 2002–2006 and 2007–2011," Association of American Medical Colleges, Jan 19, 2002; "Women MBAs," *Catalyst*, 2011.

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