

Where There's a Plan, There's a Continued Business

The idea that someday, someone else will be running your business may be a difficult one to consider. However, because death is a fact of life, it is important to face the inevitable. Therefore, if you wish your business to continue—and thrive—after you are gone, consider taking the time *now* to create a **business succession plan**.

A business succession plan is far more than a legal document designed to pass your possessions on to **beneficiaries** upon your death. It is a comprehensive estate planning tool that can include everything from shareholder **buy-sell agreements** to management plans, as well as any other documentation relevant to the smooth operation of your business. Whereas traditional estate plans are usually designed to lessen potential tax burdens, the business succession plan may include such considerations, but is aimed primarily at maintaining the overall health of your business.

Protection for Your Family *and* Your Executors

Proprietorships and **partnerships** must cease operation upon the death of an owner or partner. If a family member or **executor** attempts to carry on your business—without the proper granted authority—he or she can be held *personally liable* for all debts and any decline in value of the business, while your heirs are entitled to all profits of the business.

The business succession plan can clearly state the future financial options of your business: Who has the authority to continue its operation? Will it be sold, liquidated, or continued? Who are potential buyers and do they have the cash to accomplish the purchase in a timely fashion?

For sole proprietors the business ends and the business assets and liabilities become the assets and liabilities of the estate. If a sole proprietor does not want to change the form of business ownership, but does want to retain the business, the planning concerns involving the administration of the business during the estate settlement period, and the continuation of the business after the estate has been settled, need to be addressed. The proprietor's **will** must give the **executor** certain powers during the period of estate administration such as: 1) the power to retain the business interest indefinitely; 2) the power to do everything possible to operate the business successfully; 3) the power to re-organize the business, incorporate it, or merge it with another business; and 4) the power to borrow money, if necessary, to help the estate meet its need for liquidity.

The Status of Your Spouse and Employees

In all cases, your spouse should be informed of decisions regarding the disposition of your business. In the case of employees, specific details and confidential information need not be disclosed, but the fact that arrangements have been made to help safeguard their welfare can be communicated through a meeting or memo.

How to Begin

An estate planning team consisting of your attorney, accountant, and qualified financial professional can help you devise a business succession plan, including all the necessary documents and required information. There are established methods for a transition that will leave both your business and any successor management free from unnecessary worry.

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