

Business Continuation Concepts



A Dilemma...

- When a business owner dies, a myriad of potential problems can occur.
- The surviving owners want to (1) retain control of the business without interference from the deceased owner's heirs; (2) enact a prompt transfer of the deceased owner's interest at a fair price; and (3) preserve the loyalty and support of employees, customers, and creditors during and after the transition in ownership.
- The deceased owner's heirs want (1) ongoing financial security after the loss of the deceased owner's salary and benefits; (2) either retention of the business interest or a timely sale at an attractive price; and (3) prompt settlement of the deceased's estate (including proper tax valuation of the business interest, if they plan to sell it).

The Reality...

- Conflicts and possibly even litigation might arise between the deceased owner's heirs and the surviving owners.
- Delays in the transition to successor ownership and in settling the deceased owner's estate might be inevitable.
- Any loss of customers, employees, or creditor confidence can damage the business—and possibly even force its liquidation.

The Solution...

- A formal, written buy-sell agreement among the business owners is the first step in assuring an orderly and successful transition in business ownership following an owner's death.
- The agreement sets a fair price for the business interest and terms of sale that are reasonable to all parties.
- The price established in a buy-sell agreement typically sets the value for estate tax purposes, which helps to avoid estate settlement delays and IRS challenges.
- If the owners are related, they should obtain a professional appraisal of the business. See your legal counsel for advice on this subject.
- An existing buy-sell agreement encourages confidence in the ongoing vitality of the business in the eyes of customers, creditors and employees.

The Bottom Line...

A properly designed and funded buy-sell agreement satisfies the legitimate concerns of all parties involved by assuring business continuation that benefits sellers, buyers, employees, customers, and suppliers.

When a business owner dies, the consequences depend to a great extent on how well the business prepared for such an event.

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