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Industry Insights

Do's and don'ts of business succession planning

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Most businesses in the United States are closely-held or family-owned. For many owners, the business represents the largest and most valuable asset. Yet, many businesses do not have a business succession plan. Even worse, most businesses do not even have a buy-sell agreement to protect the business, its owners and their families in the event of death, disability, divorce or departure.

Business succession planning provides an exit for the owners of a business. When done properly, it takes into consideration numerous legal and non-legal issues, such as estate planning, valuation of the business, minimization of estate, gift and income taxation, retirement planning, smooth transition of the business to new ownership and/or management, family dynamics inside and outside the business, etc. It's no wonder that business owners procrastinate when it comes to business succession planning. Many do not want to confront these issues, but the smart owner knows that business succession planning will lead to more net cash in his pocket when he exits the business. Therefore, a few do's and don'ts.

Don’t procrastinate. The sooner you start planning, the better, because some parts of the plan may take years to put into place. If you're dead or disabled, it's too late and the business may not survive, which may jeopardize the livelihood of your family and employees.

Do communicate your business succession plan with your family and key employees. Put it in writing and explain your reasoning. For example, if an outsider will be brought in to run the business while a family member learns the business, explain why this makes sense.

Don't sell, retire or otherwise exit the business until you are financially and emotionally ready to do so. Aside from finances, do you have hobbies or other interests that you want to pursue? You don’t want to turn the business over to the next generation and then undermine their authority by showing up on a daily basis.

Do have a buy-sell agreement to protect the business, you family and the other owners against an unexpected event, such as death or disability. An agreement will address valuation of the business, determination of a purchase price and payment terms. It will balance cash flow needs to ensure the continuation of the business and the livelihood of the disabled owner or the deceased owner’s family.

Don’t forget to "lock up" key employees with employment agreements containing financial incentives and restrictive covenants. You don’t want the business to lose these valuable assets on your death or disability.

Do consult with a qualified attorney and accountant to discuss your business succession planning.

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