Business
Planning

Business Continuation Concepts

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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).

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.

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- 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.

Summary

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

WHAT THE SURVIVING OWNERS WANT

The surviving owners typically look to retain total control of the business without interference from the deceased owner's heirs. They may also hope the heirs promptly sell them the deceased owner's interest at a fair price. They want to retain the loyalty and support of employees, customers and creditors during and after the change in ownership.

WHAT THE HEIRS WANT

The deceased owner's heirs hope for ongoing financial security after the loss of the owner's salary and benefits. They typically expect prompt settlement of the deceased owner's estate, including proper tax valuation of the business interest. They may want to retain the business interest—or to sell their inherited interest promptly at an attractive price.

IN THE ABSENCE OF PREPARATION

If there's no formal, written buy-sell agreement among the business owners spelling out what's to happen when an owner dies, unhappy consequences may result. Conflict and possibly even litigation between the deceased owner's heirs and the surviving owners is not uncommon. There are typically delays in the transition to successor ownership and in settling the deceased owner's estate. Such delays and conflicts can result in a potential loss of customers, employees, and creditor confidence that can damage the business—and possibly even force its unwanted liquidation.

THE PLACE FOR A BUY-SELL AGREEMENT

A formal, written buy-sell agreement among the owners of a business is the first step in

assuring an orderly and successful transition in business ownership following an owner's death. The agreement establishes a fair price for the business interest, and the terms of the sale are set out in advance to be reasonable and agreeable to all parties. An agreed-upon value for the business interest is typically acceptable by the Internal Revenue Service for estate tax purposes if the value is fair and reasonable, which can help to avoid estate settlement delays and IRS challenges. If the owners are related, a professional appraisal of the business should be performed. See your legal counsel for advice on this subject. Confidence in the ongoing vitality of the business is generally assured in the eyes of customers, creditors and employees.

THE RESULT

A clear solution to a series of knotty problems, thanks to a properly designed and funded buy-sell agreement that satisfies the legitimate concerns of all parties and benefits sellers, buyers, employees, customers, and suppliers.