

WILL YOUR FAMILY BUSINESS SUCCEED? PLAN FOR THE NEXT GENERATION TO KEEP YOUR VALUES INTACT!

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You've spent a substantial portion of your life building the family business and intend to have this business continue during your children's and grandchildren's generations. You may have even gifted limited interests to family members to have them involved in your endeavors, or taught them by example that hard work will reap financial benefits. Even though Congress has authorized additional gifting of up to \$5 million during the next two years without gift tax (up to \$10 million for a couple), you may not want to relinquish too much control to the next generation now, and sense no urgency to pass the torch to your children.

Although about 90% of all businesses in the United States are family owned and managed, would you be surprised to know that the average family-owned business lasts less than 25 years? Could it be possible that only 30% of family-owned businesses survive to the second generation, and only 10% survive to the third generation? Why is it that so many fail to survive during the following two generations? Probably because the patriarch and matriarch have failed to address planning concepts that could have saved the business into the future. Spend the time +now+ to discuss the following concepts with your business partners and children if you intend your business to survive into the next generation.

Who will be running the business in the next generation? In many family-run businesses, one or two children have been pegged to take on certain management roles. Are these children the right choices for the roles you have given them? Have you spent time talking to your children concerning the roles you believe they are best suited for in the business and do they agree with you? Is there any sibling rivalry that children in management have tabled that will fester over time and ultimately explode after you are gone? Candid discussions where you listen

to their comments might help to structure a management team that has a better chance of success.

Who will continue to be an owner after you're gone? Some clients have already gifted to their children a small portion of the family limited partnership or LLC and assume the children will all continue their involvement in the business after the parents' deaths. Other clients who haven't already gifted partial ownership to their children assume they will exercise the clients' estate planning goal to receive equal ownership of the business as a portion of their inheritance. This assumption may not be accurate. Certain siblings may have no interest in continuing in the business and will expect to receive compensation immediately on the parents' deaths for their portion of the business (or their portion of the estate's business interest). If business debt or lines of credit will have to be augmented to buy out certain partners' interests, will this further complicate the viability of the business? Also, an unexpected divorce may cause one of your children to sell their interest, which can be a further financial strain on the business.

A few simple steps will help to steer your business toward continued viability during the next generation.

Lead By Example. Don't believe that your children think as you do. Talk openly to your children concerning how they foresee the business succeeding into the next generation. If certain children do not intend to be actively involved in the business and you are concerned that their demands for adequate compensation for their interests might tie the hands of the children who are intending to lead the company, address the issue now rather than waiting until you're gone. They expect you to take the bull by the horns and get festering issues out in the open. Don't put off these discussions for another day.

Decide your Succession Plan. After candid discussions with your children, set out a plan for the next generation, focusing on who will be managing the business, who will be employed by the business, and who has no intention of being involved. Figure out if insurance is needed to buy out the interests of the children who will not be involved in the business. Get your children to buy into the roles they will assume that are best suited for their strengths and weaknesses. With candid discussions, there will be less of a hidden agenda that would otherwise surface at the wrong time.

Further Gifting Prior to 12/31/2012 May Save the Business. With values of many family

limited partnerships or LLCs down because of our country's economic turmoil, use the two-year window of opportunity authorized by Congress to consider gifting additional percentages of the family business to those members who have long-term desires to own or manage the business after you are gone. If you are concerned about equalizing the inheritance to all of your children, use non-business assets or insurance for those children who have no intention of being involved in the business. Use these next two years to make sure children who intend on remaining actively involved in the business will be compensated for their services and included in decision-making. Discuss with your accountant, financial planner and estate planning attorney your family goals and seek advice on how to best achieve them before your window of opportunity has been shut.

Conclusion

Your family business has a better chance of succeeding if you address succession planning and further gifting before December 31, 2012. This window of opportunity makes it worthwhile to devote your energy toward estate planning that will help your family business succeed for the next generation and beat the statistics. Don't let your business fail due to inadequate planning today.