

Business Continuation

Eventually every business owner will leave the business that he or she created... either by selling the business or as a result of death, disability or retirement. As a result, business continuation planning is about taking control of something that is inevitable. Without advance planning, others may control the process. With advance planning, a business owner has the opportunity to realize the maximum value of the business, develop an appropriate tax strategy, leave the business in the hands of chosen successors and avoid the family and business turmoil that can result from a lack of planning.



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Business continuation planning begins with the business owner clearly defining his or her goals:

- What do I want for my future?** Do I want to work indefinitely, or do I want a clearly defined exit strategy?
- What do I want for my family?** Do I want my business to remain in the family? What steps have I taken to secure my family's financial well-being in the event something happens to me?
- What do I want for my business?** What would happen to my business if I died or became disabled? Do I want my business to survive my death, disability or retirement? In answering these questions, you have three options to evaluate: retain the business in your family, sell the business to co-owners, employees or to outsiders or, as a last alternative, liquidate the business.

- How is my business legally organized** (sole proprietorship, partnership, corporation, limited liability partnership or corporation)? What are the advantages and disadvantages of my business organization in regard to operating the business and transferring ownership in the future? Should I consider a change in business organization?
- Do I have any key employees**...employees to whom I delegate some of the success of the business? What would be the financial impact on my business if a key employee were to terminate employment, possibly to work for or become a competitor? How does my business attract and retain key employees? If a key employee were to die or become disabled, what would be the financial impact on my business?
- What is the market for my business interest?** Have comparable businesses been sold recently? What would be the estimated cost of starting up a similar business and growing it to the level at which my business currently operates?
- What is the value of my business?** Using multiples of earnings or capitalization rates consistent with businesses in your industry, it is possible to estimate the value of a business. Another alternative is to hire a business appraiser to produce a detailed appraisal of the value of your business. Keep in mind, however, that at any given time, the market value of a business is what a willing buyer will pay to purchase the business from a willing seller, assuming that both parties have knowledge of all material facts and neither is under any compulsion to buy or to sell.

Keeping your business in the family through an orderly succession to one or more family members at your death, disability or retirement is best accomplished through advance planning, which involves answering such questions as:

- Which family member(s) will own and manage the business?** Is there already an able family member who is active in the business? If more than one family member is involved, how will ownership and management control over the business be split? What is the transition timetable (over a period of months, years)?
- Are there any non-family co-owners?** If so, will the successor family member or members be acceptable to them?
- How will the business interest be transferred...**by will at your death or by gift or sale during your lifetime? What are the tax implications of the selected method of transfer?
- Will the selected method of transfer create a need to equalize inheritances among heirs,** such as other children? Will funds be available for this purpose?
- In the event you are disabled, will the business need to continue an income to you?** Will the business need to continue an income to your spouse and other dependent family members in the event of your death? Will funds be available for this purpose? How will you provide for your retirement?
- If ownership of the business does not transfer until your death, **will there be sufficient liquidity in your estate to pay estate taxes and other settlement costs without liquidating business assets?**
- Will there be a period of decreased profits during the transition to new management?** Will credit lines be disrupted or outstanding loans have to be repaid? Will funds be available to cushion the transition to new ownership/management?
- How will key employees be involved in the transition?** What steps will be taken to retain key employees?

If you do not have a willing, capable family member to continue the business, it can be difficult to preserve the value of your business interest unless a market for the business is created prior to your death, disability or retirement. When a potential buyer for your business interest can be identified, advance planning can provide answers to questions such as these:

- Who is a potential buyer for your business interest...**a co-owner or owners, one or more key employees or an outsider?
- At what events will your business interest be sold...**death and/or disability or retirement? How will the purchase be structured?
- Is there a buy-sell agreement in place?**
- What is the value of your business interest?** What would a willing buyer pay for your business? For how much would you sell your business?
- What will be the source of the funds needed to complete the sale?**
- What are the income and estate tax implications?**

Unfortunately, in some situations there is no capable family member willing to continue the business and a willing buyer cannot be identified.

In these situations, the only alternative may be to liquidate the business at your death, disability or retirement. Without proper advance planning, a forced liquidation, which may greatly diminish the value of your business asset, may result.

When the business cannot be retained by the family or sold at your death, disability or retirement, advance planning can lead to a planned, orderly liquidation of the business by answering questions such as these:

- Will funds be available to continue an income to you** if disabled or retired, or to your surviving family in the event of your death?
- Will funds be needed to pay estate taxes and other estate settlement costs?**
- Will sufficient funds be available to provide the time needed for a planned liquidation**, thus maximizing the liquidation value of the business and avoiding a "fire sale"?

Business Continuation Questionnaire

A. Business Continuation Objective

- Do you want your business interest:
- Retained for Family (Section B)
 - Sold (Section C)
 - Liquidated (Section D)

B. Objective: Retain the Business for Family

1. For whom do you want the business interest retained?

Name	Age	Relationship	Current Position	Ownership Interest
				%
				%
				%
				%
				%

2. How do you want your business interest transferred?

- by will (at death)
- by gift (during life)
- by sale (during life or at death)

Funding? _____

3. Will your estate have sufficient liquid assets to pay your estate settlement bill?

4. What percentage of your estate is represented by your business interest? _____ %

5. Is there a need to provide additional working capital during the transition period?

6. What plans do you have to continue an income to surviving dependents not active in the business? _____

7. Is there a need to equalize inheritances among surviving family members? _____

Business Continuation Questionnaire (continued)

C. Objective: Sell the Business

1. To whom will your business interest be sold?

Name	Age	Relationship	Currently Active? (Y or N)	% of Your Business Interest
				%
				%
				%
				%
				%

2. Do you have a written Buy-Sell Plan? _____

3. If **YES**:

a. What type is it? Cross Purchase Entity Purchase

b. When was it implemented? _____ Last reviewed? _____

c. How will the plan work in the event of:
 Death _____
 Disability _____
 Retirement _____

d. How is the purchase price determined? _____

e. Is your Buy-Sell Plan funded? _____
 If so, how? _____

 If not, where will the funds come from to complete the purchase?

f. Does your plan still adequately reflect the needs of your business and its owner(s)? _____

D. Objective: Liquidate the Business

1. *What do you think the liquidation value of your business would be today?*

\$ _____

2. *How does this liquidation value compare to the value of your business as a going concern?*

3. *Will your estate have sufficient liquid assets to pay your estate settlement bill?*

4. *What plans have you made to continue an income to yourself or your family in the event of your death, disability or retirement?*

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