Planning For Your Family Business

A well-conceived succession plan protects the legacy you worked so hard to create.

Estate planning is a complex process when a large portion of your family's wealth is tied up in a closely held business.

Ideally, a committed and highly qualified Trust & Estate Officer, in partnership with other key advisors, will help devise a plan to:

- Reduce or eliminate estate taxes
- Distribute assets among family members and others according to your wishes and needs
- Minimize disruption to the operation of your business

Estate-planning techniques that may be of particular use to owners of closely held businesses focus on leveraging the unified credit (protecting assets from federal and state tax, regardless of the beneficiary) and gift-tax annual exclusion (allowing individuals to make tax-free gifts), and exploring minority discount valuation in the context of tax code revisions. These techniques include the use of a Grantor Retained Annuity Trust, a Family Limited Partnership, or various forms of Charitable Lead or Charitable Remainder Trusts.

Additionally, when an individual's assets include interests in a closely held business, several issues should be considered. Among them:

- Who should be allowed or entitled to inherit and own an interest in the business?
- Are there adequate non-business assets, so if a beneficiary should not receive an interest in the business he or she can be fairly provided for with other assets?
- Is there adequate liquidity in the business and/or the estate to pay taxes, if any, and to comply with the requirements of any buy-sell agreement?

Collaborating on a Business Succession Plan

A Trust & Estate Officer will work with you to progress through these five key steps to create a viable succession plan, provide for your financial independence as the retiring owner(s), and position the business and heirs for continued success.

Step 1: Establish Goals & Objectives

- Review current succession plan and likelihood of achieving desired goals
- Develop a collective vision, goals, and objectives for the business with advisors, heirs, and current leadership
- Determine the importance of continued family involvement in leadership and ownership of the company, but consider the option to bring in professional management
- Establish personal retirement goals and cash flow needs of retiring family owners
- Identify goals of next generation management, both personal and business
- Identify and retain a team of professional advisors

Step 2: Establish a Decision-Making Process

- Identify and establish governance processes for involving family members in decision-making
- Establish a method for dispute resolution, if needed
- Document the governance plan in writing
- Communicate governance plan to family/stakeholders

Our Trust & Estate Officers will guide your journey through complex decision making.

Step 3: Establish the Succession Plan

- Identify successors—both managers of the company and owners of the business
- Identify active and non-active roles for all family members
- Identify required additional support for the successor from family members
- Document and communicate succession plan as necessary

Step 4: Create a Business and Owner Estate Plan

- Address taxation implications to the owner/business upon sale or transfer of ownership, death, or divorce
- Review owner estate planning to minimize taxes and avoid delays in transfer of stock to remaining owners or spouse
- Create a buy/sell agreement that is fair, reflective of the value of the business, and minimizes taxes

Step 5: Create a Transition Plan

- Consider options: outright purchase, gift/bequest, or a combination of these
- If the business is to be purchased, consider financing options including financing from an external party or self-financed from the retiring owners on a deferred payout basis
- Establish a timeline for implementation of the succession plan

Key Person Insurance

Another important estate planning element for owners of closely held businesses is key person insurance. This is simply life insurance on the person or people who are most critical to a business—usually the owner, the founders or perhaps a key employee or two. It provides the security of knowing that employees, creditors and clients and heirs will be protected if you are not able to lead your organization.

If the company doesn't have any employees or other people who depend upon it, then key person insurance isn't as necessary. If you have a spouse and/or children who depend on your income, then you should have personal life insurance for that purpose.

Helping You Protect Your Family and Business Legacy

First County Advisors' highly consultative Trust and Investment Officer team delivers a complete array of fiduciary services to uphold the intentions and best interests of individuals, families and their businesses. Working closely with you, your attorney and other financial advisors, we review, revise, and implement your customized investment and estate plans to preserve, enhance and transfer wealth.

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