

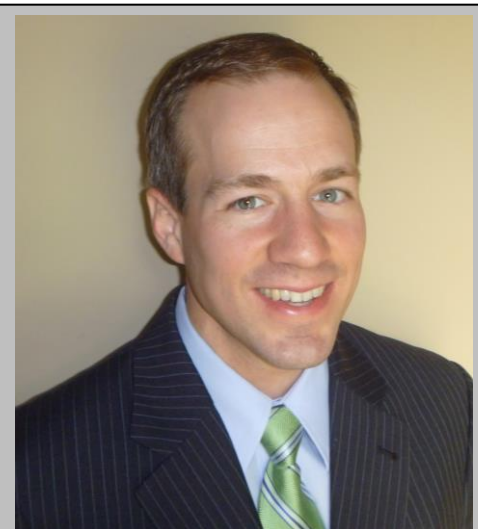
6 Key Considerations for Passing Down a Family Business

You have spent years building your small business, but have you taken time to consider what will happen to it when you retire, become disabled, or pass away? Although it is often hard to fathom an event that may not occur for many years, it is important to put plans in place in advance. The failure to do so could result in the eventual loss of the business. There are several factors you should keep in mind in making plans for the future of your small business.

(1) **Identify a successor(s).** Many small business owners plan to transfer their business to a child or children, or sometimes, grandchildren eventually. If you have more than one child, it is important to consider which of them has an interest in stepping into your shoes, as well as whether that child has the skills needed to do so successfully. It is important not to assume that just because one child is the oldest, control of the business will go to that child. The continued success of the company requires that the member(s) of the next generation who will take over the reins have the business acumen and commitment needed to run it.

(2) **Consider having the next generation participate in the business before transferring ownership and management duties.** For the continued success of the business, your successor(s) should be trained to run the business before your departure. This training can be accomplished over several years, after which you can start the process of transferring management and ownership of the business. Many business owners transfer management control of the business to the next generation first, while staying involved to a limited extent as an advisor, and then, shifting ownership.

(3) **Decide whether to transfer the business by a gift or a sale.** Although each family must make its own decision about how the transfer should occur, many business succession professionals



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recommend that the next generation have an economic stake in the success of the business by purchasing at least part of their ownership interest. If your successor does not have the funds to pay a lump sum for the business, the sale can occur as a buyout that happens over the next several years. Alternatively, the next generation can work for the company at a reduced salary to earn their ownership interest in the business. There are several ways the transfer can take place. As business law attorneys, we can help you decide which option is the best one for your particular circumstances.

- (4) **If more than one child is well-suited to run the business, put a business structure in place that enable the smooth transition to multiple successors with minimal conflict.** This transition can be accomplished by incorporating provisions facilitating a smooth transfer into your partnership agreement or LLC operating agreement, for example. If one or more children are not interested in participating in the ownership of the business, consider providing an inheritance for them from other assets or making them the beneficiary of a life insurance policy.
- (5) **Think about your own needs for retirement.** If you will need a continuous stream of income, consider continuing to play a limited ongoing role in the company for which you receive a salary. Another option is to require the next generation to purchase the business, providing funds for your retirement needs in that way. Consider tax advantaged charitable strategies for lifetime income.
- (6) **Plan with an eye toward minimizing your tax liability.** For example, one option is to transfer the business gradually by making gifts of shares in the business each year that are equivalent to the amount of the annual exclusion (currently, \$15,000). We can help you accomplish the transfer of your business in a way that minimizes your income, gift, and estate tax liability.
- (7) **Think beyond yourself.** Perhaps you have benefited from your community and want to give back. Maybe you view your business as a means to generosity. Using a Charitable Remainder Trust (CRT), Donor Advised Fund (DAF), and other charitable planning tools and techniques, many business owners have realized their business transition goals in more effective ways—cutting taxes, giving to charitable causes, and providing an example of generosity to the next generation while enhancing the reputation of the business.

Conclusion

You have invested a lot in making your business a success, and it is hard to think about relinquishing ownership or control of it. Nevertheless, planning is critical in creating a lasting legacy for your family. We can help you put a plan in place that helps you successfully pass your business on to the next generation and ensures that you have a financially secure retirement. Contact our office today to set up a meeting.

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