Legacy M&A ADVISORS LLC

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WHAT IT TAKES TO PREPARE A BUSINESS SUCCESSION PLAN

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The Center for Financial, Legal & Tax Planning, Inc.

Note to the Reader: Recently, we published a letter urging businesses to prepare for natural and man-made disasters. We touched upon business succession in that issue and we would like to further your knowledge of business succession by detailing exactly what is involved.

What is the most severe threat to the existence of your business? Some may answer "my competition", or "income and estate taxes". Even others would answer, "rising costs". While these are good answers and are concerns in day to day business operations, there is one issue that overrides everything else regarding threats to your business.

The number one threat to your continued going-concern is quite simply the lack of a Business Succession Plan. Most business owners do not understand the problems that not having a Business Succession Plan will create, nor do they understand the solution to the problem or how an actual plan is created.

The Problem

Recent research reveals some startling truths:

- Most closely-held businesses are owned by one shareholder.
- A majority of businesses do not have a full and active Business Succession Plan in place.
- Fewer than half have a successor in line and prepared.
- More than half of business owners in the United States are 55 years of age or older.
- A good percentage of the owners are 65 years of age or older.

What does this say about the condition of private American businesses? What does this say about the position of business families? Without succession planning, it is a near certainty a great portion of the business value will be lost if the "leader" passes away without a Business Succession Plan.

Continued on page 2

A CASE STUDY

Offshore Accounts

The IRS published in an Internal Revenue Bulletin that the Offshore Voluntary Disclosure Program (OVDP) will remain open indefinitely at least for the time being. The IRS opened the OVDP in 2009 and subsequently shuttered the program. It reopened the program in 2012 and has operated it continually since.

United States taxpayers are required to report income from any source in the world and disclose their offshore accounts on Schedule B. The IRS has constructed over 1000 audits of foreign accounts and have made a high number of discoveries doing so. The IRS noted that there are many US citizens evading taxes by hiding money in offshore accounts. The Department of Justice has aggressively prosecuted and are prosecuting these cases. The IRS notes the voluntary compliance is working insofar as 45,000 taxpayers have reported disclosures and paid $6.5 billion in taxes.

Continued page 3

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The Center for Financial, Legal & Tax Planning, Inc.

Mike Ertel is a Certified M & A Advisor and a Principal Broker with Legacy M&A Advisors, LLC, a full-service M & A Advisory firm with an office in Tampa, Florida specializing in representing sellers and buyers of small- to mid-sized companies. Prior to joining Legacy M&A Advisors, LLC, Mike's business career spanned 30+ years with Fortune 500 and Fortune 1000 Companies, with senior management roles in Marketing, Operations and Logistics. Mike also served as President, COO of a mid-sized Manufacturing company headquartered in Tampa. Mike also holds a BS in Electrical Engineering and an MS in Industrial Administration, both from Purdue.

Cover Story

The Solution

It is critical to understand that a Business Succession Plan will take time to implement. It is not a day long or hour long process. A number of steps (described below) must be completed in order to receive the maximum value for a business and make the transition as smooth as possible. Specially, below is the procedure that our office, The Center for Financial, Legal & Tax Planning, Inc. follows in creating a Business Succession Plan for owners of Privately Held Companies all over the United States.:

The first step is for you to make sure that we have a complete understanding of the financial status of the business as well as your personal financial status.

Our office then reviews that information (at no cost to you). This process usually takes us about 1 week.

We then have a phone call with you (up to approximately 1 hour in duration) and discuss the results of our review of the information as well as the details of what we expect to accomplish. Again, there is no cost to you for this phone call.

Shortly after that discussion, we will send you a detailed itemization of the proposed project complete with our Engagement Contract, an estimated fee structure for the project and a requested retainer amount, and any other documentation.

After we receive the signed contract and retainer, we like to make our 1st of at least 2 on-site visits to your location. This date is usually scheduled within 4-6 weeks.

At the first onsite visit – we assist you in gathering and reviewing the information.

We then complete a draft of the written Business Succession Plan and typically we also are completing a draft of the Valuation of your business during this time. This takes approximately 4-6 weeks after we have completed the 1st on-site visit.

The 2nd onsite visit then takes place, and the now written Business Succession Plan are reviewed. During this review, we agree on the parts of the plan that you are ready to move forward.

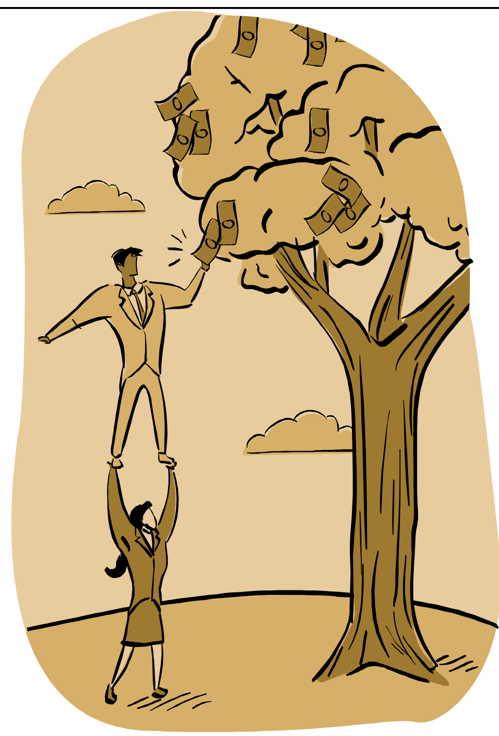
We then complete the final and draft all of the necessary closing documents and the final onsite visit then takes place and we review the final Business Succession Plan and execute all of the necessary closing documents.

About the author:

Roman A. Basi, President of The Center, is an Attorney, Real Estate Broker, and Title Insurance Agent. Roman speaks and advises The Center's clientele on such matters as Business Law, Succession, Estate & Tax Planning and Real Estate.

Points of Interest

- **The number one threat to your continued going-concern is quite simply the lack of a Business Succession Plan.**
- **Without succession planning, it is a near certainty a great portion of the business value will be lost if the "leader" passes away without a Business Succession Plan.**
- **It is not a day long or hour long process. A number of steps must be completed in order to receive the maximum value for a business and make the transition as smooth as possible.**



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A CASE STUDY CONTINUED:

Editor's Comment: This Bulletin is important because offshore accounts are no longer the sole domain of the rich. If you do the math, the average disclosure nets a $144,444 in taxes paid. Keep in mind that these disclosures are based upon years or decades of noncompliance. These people may be well off, but are not wealthy people. If you are involved in offshore accounts, be sure to disclose them. Being found in violation of these rules, not only implies penalties. These penalties can range from monetary penalties to prison time.

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Ten ESOP Fables – Debunked – Part IV

This is the fourth in a series of articles that will attempt to dispel ten common misconceptions, or fables, about ESOPs.

ESOP Fable #6: ESOPs are new and untested.

Business owners are often skeptical of an ESOP, considering such transactions new and untested. Yet, ESOPs have been around for almost 40 years. The statutory framework for today's ESOP was developed by Congress in 1974 to broaden the ownership of capital, and to provide employees with a stake in the ownership of their employers. To induce companies to create ESOPs, Congress developed powerful tax incentives for both existing owners and their companies.
In 1974 there were less than 200 ESOPs. Today there are more than 6,900 ESOPs in place, covering more than 13.5 million employees.

ESOP Fable #7: Lenders won't be interested in financing my buyout.

Another common misconception is: "My bank would not be interested in financing the buyout of my business by an ESOP." As a general rule, conventional business lenders will not be interested in financing an ESOP buyout. This can be attributed to their lack of ESOP knowledge and experience, and to a general reluctance for wandering outside of their core business practices. Specialty lenders, on the other hand, are quite interested in financing ESOP buyouts. In fact, some specialty lenders focus their practices entirely on ESOPs and employee buyouts. And the loan terms for ESOP loans can be considerably more favorable than those of conventional loans. This is due, in part, to ESOP loans generally having lower default rates than those of any other type of commercial loan.

Further, your company will have the ability to deduct from taxes not only the interest paid on the buyout loan, but also the principal payments. This lowers the company's effective borrowing costs by roughly 30%. As a result, the ESOP can be in a better position to buy your shares when compared to a third party acquirer, who will not have access to such favorable tax treatment.

Next month's article will tackle: ESOP Fable #8: I fear that my employees can sell their stock to someone else.

As ever, if you know of a business owner who's thinking of selling or buying a business and who might benefit from a ***free***, ***confidential***, consultation with us, have them contact me directly.

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Frequently Asked Questions…

Q: What is a "full-time equivalent" (FTE) employee?

A: An FTE is the number of hours every person in the business works added together. This sum is divided by 2080. The resulting number reveals the number of FTE's and therefore whether the employer is considered a "large" employer or not.

Q: If I am a large employer, can I eliminate the need for employee healthcare by reducing everyone to 30 hours per week?

A: No, if an employer has over 50 FTE employees by calculation, the employer must generally provide healthcare for their employees at an affordable cost to the employee

Q: I am interested in giving my employees some kind of employee ownership. What do you recommend?

A: While I cannot recommend or give out legal advice via newsletter, one item of interest would be an employee stock ownership plan or an ESOP. In an ESOP, the owner of the company can carefully craft ownership limits and details for their employees. Once the employee resigns, the employee is compensated for their shares and the shares can then again be resold to another.