Deliver to: Kristi Kosakowski

Planning Partners Press™

KETRA A. MYTICH, LTD.

Volume 9, Issue 10 Cost: PRICELESS 5/16/2007

PLANNING FOR BUSINESS SUCCESSION WHEN YOU ARE NOT GOING TO KEEP IT "ALL IN THE FAMILY"

Part 1 of 2

Most people who have put years of effort into building a business care about what happens to the business after they are gone. Founders hope their businesses will survive them, or at least that their loved ones will receive the benefit of their work.

Numerous articles have been written about how to keep a family business in the family after the founder's death. This can be accomplished using a variety of estate and tax planning techniques; all of which assume that there are younger family members who will carry on the business.

Not every founder has children, however. Even when there are children, they may be too young to take over, or not suited for the business, or simply have no interest. The owner, however, wants his or her family to benefit from the business, whether they work in it or not. So what are some options for this type of planning?

Successor Employee Planning

The business owner first needs to decide if there are existing employees willing and capable of taking over the business. Key employees need to be identified, and it may require several employees to take on all of the functions handled by an energetic founder.

Ideally, the founder and his or her successors will draw up a business "game plan" for how the business should be run upon the founder's death or disability, so everyone will know what is to be done to avoid delay and confusion at a critical time.

Of course, the succession plan must also be coordinated with the founder's personal estate plan. Substantial estate taxes may have to be paid if the business interest or sale proceeds do not pass to a surviving spouse. Strategies might include using an insurance trust to provide funds to pay the estate taxes (this is separate from the insurance to fund the stock purchase); using charitable trusts; instituting a lifetime gifting program; or simply preparing for the eventuality of paying taxes.

In addition to estate planning issues, legal counsel must be consulted to develop the legal structure to implement the succession. Among the many issues to be discussed with counsel, the following are key:

- If the employees are going to buy the business from the founder's estate, how will the purchase be structured?
- If a buy-sell agreement is used, how will the purchase price be determined?
- If the corporation or the employees are to purchase the business, how will they pay for it?

Next time…

In Part 2 of this article, we'll provide some possible answers to these three questions, talk about the sale of the business to someone other than an employee, and discuss important timing issues.

KETRA A. MYTICH, LTD.
6809 N. KNOXVILLE AVE., SUITE B.
PEORIA, IL 61614-2866