



BUSINESS SUCCESSION PLANNING

Secure Your Family's Future

As a business owner, it is important to ask yourself: “if I could no longer operate my business, what would happen to it?” If you struggle to answer this question, it is time to implement a business succession plan. For many small business owners, the equity in their business and the income it generates comprise the bulk of the owner’s estate and provide the means of support for the business owner’s family. Upon the death or disability of the owner, many families are left scrambling to operate a business they are unfamiliar with or unqualified to run, leading to the eventual loss of customers and key employees. Ultimately, the owner’s family may be stuck with a business that loses its value or actually becomes a financial burden to the family. Fortunately, proper business succession planning can prevent this and provide an avenue to support the owner’s heirs, whether through internal or external sale, continued operation by the family, or liquidation.

Key Considerations for Business Succession Planning

- **Buy-Sell Agreement.** Implementing a buy-sell agreement setting forth the terms under which an owner’s interest in the business is to be purchased (e.g., death, disability, divorce), by whom (e.g., business partners, family, key employees), and at what price is a critical element of a successful business succession plan. An insurance backed buy-sell agreement (see <https://ivanlawgroup.com/blog/f/insurance-backed-buy-sell-agreements>) used in conjunction with an irrevocable business acquisition trust that holds insurance policies on the owner’s life provides even more security by ensuring immediate liquidity for the owner’s family at his or her death.
- **Retention of Key Employees.** Many business owners desire that their business continue should something happen to them. Unless the business is operated entirely by family, it is often necessary to retain key employees to ensure its continued success. There are many ways to incentivize key employees to remain with the business and have an interest in its long-term success, including phantom equity awards, profits interests (see <https://ivanlawgroup.com/blog/f/profits-interests>), equity purchase options, and key-man insurance.
- **Estate and Tax Planning Considerations.** When it becomes clear that a family business will have significant long-term value, business owners should consider transferring ownership interests in the business to one or more irrevocable trusts (see <https://ivanlawgroup.com/blog/f/spousal-lifetime-access-trust-slat>) to remove appreciation from the owner’s estate and implement multi-generational dynasty trust planning (see <https://ivanlawgroup.com/blog/f/dynasty-trusts>).
- **Asset Protection.** Restructuring the business as a multi-member LLC can provide asset protection benefits (see <https://ivanlawgroup.com/blog/f/family-llc> and <https://ivanlawgroup.com/blog/f/llcs-and-charging-order-protection>). A corporation, whether taxed as an S or C corp., can easily convert to an LLC and maintain its original tax status (see <https://ivanlawgroup.com/blog/f/limited-liability-company-conversions>).