

Business Succession Planning – So What is It ?

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You are the owner of a closely-held business where you oversee all day-to-day operations. Your typical day is spent handling customer issues, manufacturing issues and administrative issues. By necessity, historically you have focused mostly on short-term planning without spending much time contemplating long-term planning. As you grow older you may start to ask yourself difficult questions:

Who would run the business in your absence?

Would your business's customers remain if you were no longer part of the business?

Would your business's lenders, supplier or employees be concerned if you were no longer part of the business?

Will the business survive if you are not there?

Inevitably these are questions that all principals of closely-held businesses are forced to address. This is where Business Succession Planning comes into play. A technical definition of Business Succession Planning goes something like this:

Business Succession Planning – planning that helps organizations prepare for transition in leadership and puts structures in place to develop skills and competencies in employees.

Business succession planning implements a strategic plan which integrates the elements of financial planning for the business owner and his/her family with long-term planning for the health of the business, and often includes helping an owner chose among various goals and aspirations which may, and likely do, directly conflict with one another. Currently, there is a definite need for Business Succession Planning in the U.S., as evidenced by the following statistics:

According to the United States Department of Commerce, at least 90% of all U.S. businesses are closely-held.

More than 4.5 million business owners are at least 50 years of age.

67% of business owners with revenues between \$5 million and \$150 million plan to "leave" the business within the next 10 years

More than 75% of those owners who do plan to leave, have not done much, if any, planning with regard to how they will “leave” the business.

The U.S. Small Business Administration reports that at any given time, 40% of the U.S. businesses face issues regarding the transfer of ownership and the primary cause for the failure of such efforts is lack of planning.

At Burr & Forman our attorneys routinely address the following questions during each business succession planning engagement:

When does the owner plan/want to retire?

How will the owner fund his/her retirement?

Who is going to run the business after the owner retires and/or after his/her death?

When should transfers of ownership begin; during life or only at death?

What is the value of the company?

How can the business owner and the owner’s family protect that value of the business from declining when the owner is no longer directly involved (whether due to an untimely death or at retirement)?

How much planning is required in order to minimize income, estate and gift taxes?

What about estate liquidity upon the owner’s death (whether for estate taxes or to generate cash needed by surviving family members)?

What planning needs to be undertaken for the surviving spouse?

How do the business owner client and the owner’s spouse treat the children equally if the size and value of the estate is so dependent upon the success of the business?

Who will run the business after the current owner? Is it a family member or a trusted employee or maybe a third party?

How will the business owner handle the potential divisiveness of business succession?

Like all other estate planning, what about the contingencies of the disability of either the business owner or a spouse or the untimely death of either?

In order to design and implement a **successful** business succession plan one must cover a wide variety of specialties, not only including accounting and legal expertise, but also investment banking advice, valuation estimates, family business assistance (to deal with family tensions and conflicts), and, last but not least, insurance matters. The failure to incorporate expert assistance in dealing with any one of these areas can doom what might be an otherwise successful business succession plan. While someone needs to be the quarterback in bringing everybody to the table, the professionals in each of these areas must be able to share their ideas and thoughts with one another freely. We at Burr & Forman understand that it is always important to bring a team approach to our business succession planning engagements. If you would like to discuss any of these questions or business succession planning in general, please do not hesitate to [contact](#) one of Burr & Forman’s Business Planning and Succession team members.

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