Does Your Small Business Have a Succession Plan? 6 Key Factors to Consider

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After years of blood, sweat, and tears, you have built a successful small business, but have you considered what will happen to your business when you retire or pass away, or in the event you become disabled? It is often hard to fathom an event that may not occur for many years, but it is critical to put plans in place in advance. Failure to plan for the inevitable could result in the eventual loss of the business. All small business owners should genuinely consider the following factors in making plans for the future of their business.

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

2. **Train the successor**. Consider participation in the business by the next generation before transferring ownership and management duties. For the continued success of the business, your successor(s) should know the ins and outs of the business and be able to run it before you depart. Training the successor can occur over several years, after which you can start the process of transferring management and ownership of the business. Some business owners choose to transfer management control of the business to the next generation first, while staying involved to a limited extent as an advisor. Then, after some time has passed, transferring ownership of the business can be completed.

3. **Determine whether to transfer the business by gift or sale**. Each family must make its own decision about how the transfer should occur and the circumstances of when that might happen. Many business succession professionals recommend that the members of 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 money to pay a lump sum for the business, the sale can occur as a buyout that happens over several years. Alternatively, the next generation can work for the company at a reduced salary to earn ownership interest in the business. Transfer of the ownership interest in the business can happen in several ways. If the transfer happens due to a sudden illness or death, have you considered the need for an income stream to support a surviving spouse? The business and estate planning attorneys at Miller, Miller & Canby can help you explore options best suited to your particular circumstances.

4. **Create a structure for multiple successors**. If more than one successor is well-suited to run the business, put a business structure in place that enables a

smooth transition to multiple successors with minimal conflict. Incorporate provisions facilitating a smooth transfer into your partnership agreement or LLC operating agreement. If one or more family members 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 your retirement**. Will you need a continuous stream of income during your retirement years? If the answer is yes, consider continuing to play a limited ongoing role in the business, for which you receive a salary. Another option is to require the next generation to purchase the business; this would provide the funds needed for your retirement.
6. **Plan with an eye toward minimizing your tax liability**. Many business owners choose to transfer ownership in the business gradually by making gifts of shares in the business to family members each year that are equivalent to the amount of the annual federal gift tax exclusion (currently $15,000). Our estate planning attorneys can help you establish a gifting plan to accomplish the transfer of your business in a way that minimizes your income, gift, and estate tax liability.

You have invested time, effort and collateral in making your business a success and it may be difficult to think about relinquishing ownership or control of it. Nevertheless, advance planning is of utmost importance in creating a lasting legacy for your family. Miller, Miller & Canby's business, tax and estate planning attorneys can work with you to put a plan in place that helps you pass your business on to the next generation and takes into account your financial needs in retirement. Contact our office today to set up a meeting by **clicking here**.

David A. Lucas is an attorney in Miller, Miller & Canby's Estates & Trusts and Business and Tax Practice Groups. David has focused his practice on helping families preserve their financial wealth and legacies for future generations through the use of Trusts, Wills, Powers of Attorney, Advance Medical Directives, Living Wills, and other estate planning strategies. David is committed to providing his clients with a well-crafted estate plan so they may avoid probate, protect their assets and legacies, and provide for the security of their loved ones. He takes a special interest in ensuring that the dreams parents have for their children and grandchildren are not lost to taxes, poor planning, or procrastination. He speaks frequently on a variety of estate planning topics to both the general public and private groups.

Contact David to discuss your estate plan to take advantage of the laws available today and ensure flexibility for future changes. For more information on Miller, Miller & Canby's Business and Tax Practice Group, **click here**.