Succession Planning - If it is so Important, Why do so Many People Avoid it?

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With a large number of baby boomers still at the helm of their business and hoping to retire in the near future, the thought of and anxiety around transitioning the business is inevitable. Having a proper succession plan in place will not only shape the future of the business but will also allow business owners to accomplish several goals, including but not limited to, ensuring the continued legacy of the business; avoiding later conflict between children over roles in the business and division of the estate; preserving the business for future generations; using capital gains exemption limits; providing for their retirement; and taking advantage of tax rules to complete a business transfer in the most efficient manner. Although most people recognize the importance of succession planning and having a plan in effect, the majority will likely not do anything to put one in place. In fact, a recent study from a major Canadian bank showed that 43 percent of family businesses do not have a plan. Why is that?

The tools to put a succession plan into effect are readily available to all - a lawyer and an accountant are but a phone call away. Where the business is passed on to the next generation, lawyers and accountants can work together to devise a plan whereby shares will be transferred over time onto those who will manage the business (either as gifts or as payment for services rendered to the business or a combination of both), and also implement a retirement plan for those exiting the business. These actions are often accomplished through the preparation of a unanimous shareholders agreement, revisions to the exiting individuals' wills, as well as the determination of beneficiaries to any existing life insurance policies. Sometimes it may be necessary to hire a business valuator to complete a valuation of the business. This will give the current owners a better sense of what the business is worth and allow them to make informed decisions.

The most difficult part of succession planning for business owners often occurs at the outset, when decisions surrounding the structure of the plan are being made. Where family is involved in the business, the owner will have to engage in difficult conversations with family members, which can be further complicated where there are children who work for the business and others who do not. It can be challenging to present a plan to the family where not all children (and their spouses) are treated equally. The fear that presenting such a plan will create tension within the family is not entirely unfounded. As a result, when discussing the transfer of a business to the next generation, it is very important to remember that "fair does not always mean equal." Parents often feel the need to treat their children (and often their spouses and grandchildren) equally when transferring the business and dividing up their estate. Given that not everyone is actively involved in the business, or not involved to the same degree, parents must remember that it is not necessarily unfair to give more shares or control of the business to those children who are actively involved in the business and who will in turn look after the continued existence and success of the business. Children who are not actively involved in the business may be just as happy to receive financial compensation through the parents' estate than shares in the business. For instance, parents may decide to transfer the majority of shares in the business to the child who is actively involved in the business, while assigning the proceeds of life insurance policies to the children who are not involved. Such provisions could be included in a unanimous shareholders agreement and the parents' wills. The key is to talk about this as a family before these kinds of important planning decisions are made.

Another issue that arises is the transfer of control of the business. An individual who is used to being in control of a business may have a difficult time handing the reigns over to the next generation. Therefore, as part of the planning process, it may be necessary to set checks and balances that will allow the exiting business owners to feel like they still have some sort of say in the business, while allowing the next generation to assume the day-to-day operation of the business. This can be accomplished via family meetings, since the exiting generation still gets a say without becoming a difficult business owner who "can't let go." Unless the exiting business owner is willing to relinquish all control, the planning process will involve a careful balancing act, where we have to appease the individual transitioning out of the business and the individual(s) assuming control.

Since no two businesses or families are the same, a proper succession plan will require the expertise of lawyers and accountants, among others. Families going through succession planning can expect several meetings with these professionals to determine goals and expectations. These conversations should take place early on in the process. The goals of the family should be clearly documented and agreed-upon so there is a consensus among the family and there are no misunderstandings in the future. This allows business advisors the necessary time to develop and implement the plan. If there are several family members involved in the business, it is important to invite everyone to the table so that peace can be preserved within the family. After all, one of the key results of a successful business plan is the continuation of happy family dinners.

By being one of the few businesses that does work with a team of advisors and planning *with* the family, not *for* the family, a business owner will greatly enhance the chance of successfully transitioning the family business, maintaining its legacy, providing for retirement and preserving relationships within the family.

Succession planning is not an issue that is unique to businesses that will remain in the family. All businesses need to look at succession planning regardless of family involvement and although the planning may be different for non-family enterprises, it still needs to be addressed. Having a succession plan in place may offer reduced risk to all involved parties and increase the value attributed to the business.

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