

From Startup to Succession: Estate Planning for Business Owners

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From startup to succession, estate planning plays a vital role at every stage of a business owner's life. A well-considered estate plan, revisited frequently, can make the difference between a successful business succession plan and a potential business disaster.

Startup

For an owner starting a business, many non-business tasks are placed at the bottom of the priority list. However, all adults should execute core estate planning documents, including a Last Will and Testament, a Power of Attorney, a Health Care Proxy and a Living Will. A business owner should ensure that he or she has the core estate planning documents in place and that the estate plan is consistent with any business agreements. In the case of a health emergency or death, ensuring that one's agent or fiduciary has the proper authority to manage business interests is essential.

Family Developments

Marriage and family growth are significant life events that should trigger an estate plan review. These life events may lead not only to estate planning updates, but also to certain considerations within the business to ensure that a spouse or children can maximize benefits from the business in the event of the owner's death or disability.

It is also prudent to consider how assets should pass to the children, especially minors, whether lifetime or testamentary trusts are appropriate, and if such plans are affected by business agreements.

Mid-Career

The midpoint of a career is often when years of hard work begin to pay off. Business owners may see significant asset growth. This is the ideal time to focus on business succession planning and tax planning. Business owners should engage partners and family members in discussions about long-term goals and succession planning decisions.

As a business grows, so does financial freedom. Business owners might purchase assets like a vacation home or investment property, necessitating the review of one's estate plan. Owning multiple properties or an out-of-state property can have legal implications, such as requiring ancillary probate proceedings, resulting in increased estate administration costs. Establishing a revocable trust to own out-of-state properties can help ensure a smoother transfer of assets on death.

More sophisticated planning should be considered for businesses of significant value.

Establishing irrevocable trusts and utilizing business valuation discounting for gifts of business interests to the trust can give business owners the best of both worlds: reducing the value of his or her estate while maintaining control of the business.

These planning techniques take time and effort but can pay significant dividends in terms of

succession planning and estate tax mitigation for business owners and their beneficiaries.

Planning for Retirement

As a business owner nears retirement, succession plans should be finalized. Depending upon the success of the business and overall estate value, estate tax planning should be a priority. Much like the early stages of a marriage, this can be the right time to adjust asset ownership, establish or update trusts, and

implement a plan aimed at minimizing state and federal estate taxes.

Other Considerations

A business owner should consider his or her estate plan as part of the business's growth and succession plan and continue to monitor and update the plan to best fit the phases of the business's growth.

There is no one-size-fits-all approach to estate planning. Estate plans should be customized and revisited as life events occur.

Attorneys in the Phillips Lytle LLP Trusts and Estates Practice Group provide advice and guidance regarding all aspects of estate and trust administration and litigation. Holly A. Beecher, Partner and Leader of the firm's Trusts and Estates Practice Group can be reached at (716) 847-8327 or hbeecher@phillipslytle.com. Sharon L. Wick, Partner, can be reached at (716) 847-7025 or swick@phillipslytle.com. Benjamin S. Cranston, Senior Associate, can be reached at (716) 847-7079 or bcranston@phillipslytle.com. Madeline J. Drechsel, Associate, can be reached at (716) 504-5727 or mdrechsel@phillipslytle.com.



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