

Getting down to business - the importance of succession planning

Most of us go to great lengths to protect what we have worked hard to earn throughout our careers. We buy coverage for our houses, possessions and cars. We make sure our lives are insured and our families can benefit from our assets.

It might surprise you to learn that, although most business owners work hard to start and build their businesses, they do not take any action to ensure that their businesses will survive. In fact, a 2006 survey showed that half of small and medium-sized businesses have no succession plan of any kind.*

The issue of succession planning is even more complex when the business is one that is family-owned. The long-term goals of the business must then be balanced with the wishes of the family.

**Survey conducted by the Canadian Federation of Independent Business*

There may be a family member who is capable of taking over the leadership of the business. There may be more than one candidate, or there may not be any family member qualified.

A detailed and formal succession plan can help you determine who can best lead the company into the future, based on the goals and objectives of the business. The plan can also outline any training required to get the new leader up to the required level. It can also specify what role, if any, other family members will fill such as shareholders or board members.

A team approach between your lawyer, accountant, financial and insurance advisors will ensure all aspects of the plan are covered and that taxes payable on the disposition of the business are minimized. In some cases

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You say consultant, I say employee

Never before has the workplace been quite as complicated as it is today. In the past, a company may have hired only full-time employees. But now there is an unprecedented number of consultant, contract and temporary roles in play.

Each of these positions comes with an employment contract in which terms for such items as compensation and notice of termination are detailed. Although most people don't think of it, it's well worth the effort to have an offer of employment reviewed by a lawyer before you sign it to ensure the terms are as favourable to you as possible and that you fully understand the implications.

When working as a consultant or contract employee, the definition of "employee" becomes slightly more complex. If you are a self-employed individual working for a company and not on salary, the law may still consider you an employee.

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Charles Ticker is the lawyer with *heart!*

Did you know...

- More than 1/3 of independent business owners plan to exit their business within the next 5 years.
- Of small and medium-sized business owners -
 - 10% have a formal succession plan
 - 38% have an informal plan
 - 52% have not succession plan at all
- Accountants and legal advisors are the most common types of professionals used to prepare a succession plan.

Based on results from a survey conducted in 2006 by the Canadian Federation of Independent Business (CFIB)



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taxes can be eliminated by using the available capital gains exemption.

Hiring a third party to mediate the process allows all family members to voice their opinions, expectations and concerns early in the process. The succession plan can then ensure that any members not to be involved in the new business structure will be compensated appropriately. Planning well at this point both protects the business assets and the family relationship.

A succession plan should be done as early as possible and should include a plan to communicate the changes to family, employees and the public. Ideally, there is a long transition period in which the former owner takes on a less active role and the new owner gradually takes over control.

So you are a business owner and don't have a succession plan in place, consider making it a priority. After all, you built your company to last and that's exactly what should happen.

For those who didn't do their succession planning...



"Someday, son, none of all this will be yours."

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You say consultant, I say employee

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In a case decided by the Ontario Court of Appeal this year, a sales representative who worked for one company was forced to form his own corporation and be paid through it, or lose his job. When he was terminated, he sued his employer for 20 months notice instead of the 60 days specified in his contract.

The key point in the decision was whose business the individual represented. Was the individual carrying on business for himself or on behalf of the organization? The court decided it was on behalf of the organization and that meant he was an employee and deserved to be treated as such. He won his case.

So whether you are hiring an employee or "consultant", taking on a new job or leaving a role, take the time to have your offer reviewed by a lawyer.

*He who fails to plan,
plans to fail.*

(Proverb)

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