

PRACTICE

Business Succession Planning

PARTNERS

Nina T. Dow
Anthony J. Dragga
Julie K. O'Neill
John F. Shoro

OF COUNSEL

Samuel C. Sichko

PARALEGALS

Victoria J. Taylor

OVERVIEW

Succession planning is particularly essential for small businesses, family-owned businesses and partnerships to prepare in case the owner or a senior-level partner retires, becomes incapacitated or dies.

As we read in the news nearly every day, problems also arise when partners can no longer work well together and decide to part ways. For family businesses, they will need to either identify family members who are qualified for leadership positions or consider other contingencies beyond the family. Business succession planning is an investment in your family's and your employees' futures.

Effective succession planning requires more than a leak-proof legal strategy. Planning early, basing decisions solely on business needs, and revisiting the plan as conditions change are the keys to a successful hand-off.

Developing a comprehensive plan demands the careful balancing of the ambitions, goals and apprehensions of all the concerned stakeholders.

Careful planning will help you retain key staff and help ensure a smooth transition between you and the future managers and owners of the business you've worked so hard to build.

The Bowditch financial and tax planning team possesses the experience and sophistication necessary to guide your organization through all aspects of business succession planning.

How we can help

- State and federal income tax minimization
- Shareholder agreements and funding mechanisms for these agreements
- Structuring sales and gifts of business interests
- Employee Stock Ownership Plans (ESOPs)
- Recapitalizations

- Tax-free reorganizations
- Deferred compensation arrangements
- Gift planning for business interests, including valuation discounts
- Voting trusts
- Key man/woman insurance
- Split dollar agreements
- Qualified Family Owned Business Interest estate tax deduction
- Stock redemption to pay estate taxes
- Deferral of estate taxes on closely held businesses
- Special use valuation for farming businesses
- Allocating value and/or control
- Identifying potential buyers and/or beneficiaries
- Determining business ownership and asset transfer strategies
- Strategic tax planning
- Ongoing business management & incentives

EXPERIENCE

A stock holder's sudden death raises several business and family issues

When the majority stockholder of a small, inherited family business died suddenly in his 50's, our client was faced with several difficult issues. We had prepared the man's estate plan as well as his parents' plans, so we knew the business and the family well and recognized the different interests of all of the parties.

One of our priorities was to keep this manufacturing business running while we were dealing with distribution of the estate to the non-working widow, the children and the siblings, who were stockholders but not involved in running the business. We also knew that the plan called for positioning the second-generation, Massachusetts-based business for sale.

We worked closely with the client's accountant to put a strategy in place featuring key employees, with incentives for the employees to stay on. The business sold quickly, and the proceeds went to the estate. Trusts were created for the widow and children along with individual life insurance, and resources for the family were maximized.

OTHER EXPERIENCE

- Investigated and disclosed financial malfeasance by corporate client CFO to IRS and state tax authorities and minimized trust fund penalty assessments. We successfully brought claims against CFO and recovered our client's costs.
- Advised majority owner of a manufacturing company in the development of a succession plan including drafting and negotiation of a Transition Services Agreement and Employment Agreement.

- Drafting of a Shareholders Agreement addressing business succession issues for a human resources company.