INSIGHTS

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All in the Family: Succession Planning Tips for Family-Owned Businesses

Q: WHY IS IT IMPORTANT FOR A FAMILY-OWNED BUSINESS TO HAVE A SUCCESSION PLAN IN PLACE?

MICHAEL E. KUSHNIR: Often the family business is the family's largest asset. It is the parents' retirement fund, the next generation's opportunity to create wealth, and the source of income for many family members who may work for the company. Preserving the asset and the wealth created by the business requires careful, long-term planning. It typically requires input from the family members and the family's trusted advisors. It is imperative that you create a situation where the purchase price (the parents' retirement proceeds) are protected, while at the same time not creating a cash flow obligation for the company that prohibits its growth opportunity.

Q: HOW DO THE OWNERS' ESTATE PLANNING CONSIDERATIONS COME INTO PLAY?

MEK: Transitioning the company from one generation to the next goes hand-in-hand with ensuring that the parents' estate planning needs are satisfied. In structuring an effective succession plan, there are a myriad of issues that need to be considered. The succession plan needs to be coordinated, so as to maximize any tax and planning opportunities, while at the same time minimizing any negative consequences that could flow out of the transition.

The parents need to consider their ultimate goals and objectives. Do they wish to transfer the company outright and debt-free to their children? Do they view the company as a way to fund their retirement? Are there issues with continuity and survival of the company? Are there one or two family members who are better suited to run the business in lieu of others? Once these types of decisions are discussed, their estate plans should be updated accordingly, and then reviewed regularly.

Q: WHAT ARE THE KEYS TO PUTTING A SUCCESSION PLAN INTO PLACE?

MEK: Open, honest, and early communication, and the cooperation and involvement of the family's accountant, financial planner, and insurance agent, as well as any other trusted advisors. It is imperative the transaction be viewed and structured as an arms' length transaction. What is the true value of the company, what are the parents' needs in terms of ongoing cash flow, what is expected of the company in terms of maintaining the parents' lifestyle, all the while ensuring that the transaction is being structured in the most tax efficient manner. All parties need to have reasonable expectations as to what the end goal is.

Q: ARE THERE ANY COMMON PITFALLS THAT OWNERS SHOULD TAKE STEPS TO AVOID?

MEK: Not planning early enough. Not engaging your advisors until after the time for planning has passed. Many families are reluctant to begin the process, which often limits the transition options. Often parents do not want to give up control too soon. Families need to correctly value a business, which is no different than if the company was being sold to an independent third party. The owners need an accurate valuation of what the company is worth and what the company can afford. Consider using an independent valuation expert who can make a fair assessment of what the price should be. Not being open and honest as to what the parents expect and what the next generation can provide.

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