

Solutions for a Successful Family Business Succession¹

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According to *The Practical Lawyer*, 90% of all businesses in the United States are family businesses. These are businesses owned or controlled by members of the same family. Family owned businesses are very important to the US economy, creating 60% of total US employment, 78% of all new jobs, and 75% of wages paid. Over the next 4-5 years, 40% of these family businesses will be handing off the reigns of control to the succeeding generation. However, it is predicted that only 12% of businesses that pass to the second generation will survive to the third generation.

Numerous Bay Area small businesses will face a large estate tax during the next 5-10 years. Being forced to pay hefty tax bill prevents owners from having sufficient capital to keep the business in operation.

Yet, perhaps more overlooked by business owners are issues completely unrelated to estate taxes. First, dysfunctional family power dynamics and sibling rivalry can curb preparation of the succeeding generation for management. Second, even if there no overt conflict exists, older generations may not wish to let go of management because of the fear of losing their leadership role in the family. Third, significant age differences between parent managers and their children (often 20 to 35 years) can lead to a disconnect between managers and protégés, reflected by divergent expectations on how the business should grow in the future.

To address these concerns, family business owners should consider the following four strategies. First, have an ownership system set up that can help ease the tax bill. The structure of the family business, such as a corporation, partnership, or an LLC, can ensure that the business will be kept in the family.

Second, take concrete steps to prepare the succeeding generation for management. Ensure that there are regular family meetings where the short and long term goals of the business are discussed. A family meeting serves as a forum where the older generation can communicate the values upon which the business was built, and where protégés may express where they see the business going and their willingness to manage. The family meeting provides an opportunity to identify which protégé can be groomed as an heir.

Third, allow the family meeting to serve as a launching point for the delegation of management responsibilities. A third party objective participant in the family meeting, such as a family business attorney, can help identify an appropriate heir to groom.

Finally, write up a family business mission statement. This document will articulate the values and direction of the family business both now and for future generations. Not only does such a statement inform future managers of the goals and direction of the business, it also serves as a lasting testament for the future generations of family business owners.

¹ This article is intended to provide general information about estate planning strategies and should not be relied upon as a substitute for legal advice from a qualified attorney. Treasury regulations require a disclaimer that to the extent this article concerns tax matters, it is not intended to be used and cannot be used by a taxpayer for the purpose of avoiding penalties that may be imposed by law.

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