About the Authors/BART BASI, CPA; MARCUS S. RENWICK

Dr. Bart A. Basi is an expert on closely-held enterprises. He is an attorney, a Certified Public Accountant, and President of The Center for Financial, Legal & Tax Planning, Inc. He is a member of the American Bar Association's Tax Committee on Closely-Held Businesses.

Marcus Renwick is an attorney and the Director of Research and Publications with the firm.

With four specific services, The Center provides complete unbiased planning. The Center does not sell any products; its main purpose is to provide advice. Local experts are retained to implement the plans developed by the Center. The Center for Financial, Legal & Tax Planning is located at 4501 W. DeYoung Street, Suite 200, Marion, Illinois 62959. Phone 618-997-3436; Fax 618-997-8370.

Bart Basi

Choosing a Successor

Human life is infinite. The life cycle of a business is potentially infinite. Choosing a successor is critical to the survival of any business and can be critical in accomplishing your goals as well. Making the right choice means your business survives and the wealth that the continuation brings will continue to benefit your family. On the other hand, choosing the wrong successor can mean financial ruin, not getting paid for the sale of the business, or worse. Knowing the basic types of successors is empowering to make the right decision in transferring your business. Transfers of business interests including gifting, selling to family members, selling to employees, selling to competitors, and selling to investors are discussed in this article.

Gifting the Business

In transferring a business interest, one option that exists is that of gifting the business. Typically the individual to which the interest is being transferred to may not have the money to buy the interest. The intent of a transfer like this is to avoid or reduce estate and gift taxes, make smooth transitions from one generation to the next, or both.

Transfers to a person are limited to $13,000 per year per person in order to be tax-free. Amounts beyond this amount are taxed according to applicable tax rates. However, with the use of the Unified Tax Credit, no actual gift tax may be charged.

In addition to this goal, business owners often desire a smooth transition of the business to the next generation. When the business owner passes away, typically an estate with the business included will be in a state of disarray. Since the business interest is removed early in a gifting situation, it essentially escapes the shock and grief when the owner's dies.

Selling to the Next Generation

Another way to transfer a business interest is to sell the business interest. This strategy is followed when the goal of the business owner is to ensure a smooth transition and to obtain a high value for the business. The effect of the transfer will not reduce the value of the estate as gifting the interest does. Typically, either stock or assets of the company will be sold to the successors. When selling stock to the successors, capital gain will result to the seller usually in the amount of 15% until 2010. When selling assets, both capital and ordinary gain will result. Asset sales result in ordinary gain to the extent of depreciation taken on the assets over the course of their in service use.

Selling to Employees

When a business owner does not have heirs or an otherwise single successor who are interested in the business, the option of selling or transferring the business to employees becomes appealing. There are four primary ways in which a business owner can transfer interests to employees. They are installment sales, stock options, bonus agreements, and phantom stock agreements.

Selling to a Competitor

Another option that exists is that of selling to a competitor. Selling to a competitor is best when the seller wants to get out of the business entirely, yet receive high funds for the business. When a business is sold to a competitor, a covenant not to compete will be created barring the former owner from competing against the new owner.

The sale can be done either through an asset or stock sale. If the owner chooses an asset sale, typically the buyer will pay more because they will be able to use certain deductions that only an asset sale allows. If stock is sold, typically the business owner will get less because deductions useable under an asset sale are not usable under a stock sale.

Selling to Investors

Selling to a group of investors is yet another option. This option really only exists for larger more lucrative businesses with good management in place. Investors are typically not interested in small, "mom and pop" type businesses. For larger businesses that choose this option, it can be quite lucrative. Investors typically see the business to be bought, not as a moneymaking entity, but a moneymaking investment. This different logic can result in higher prices paid for the same business.

There are options available for your business succession paradigm. Whether you choose to gift the business, sell the business to family, or a third party, arriving at a course of action is critical. Without a course of action to pass a business, rarely do businesses survive and rarely is value preserved. If you haven't engaged in business succession planning or chosen a successor, be sure to call the professionals at The Center to begin your planning.

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