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BUSINESS CONTINUITY PLANNING 101

How do you protect the business that you worked so hard to build from the unknown? The primary unknown is you or a co-owner/shareholder dying or becoming disabled and unable to work. Knowing how important you and your partners are to the business, what would happen if that should happen?

In a partnership or a business with multiple owners/shareholders, the death of one would mean the surviving owner(s) could end up with a new owner…the surviving spouse. That person may have no skills required to contribute to the ongoing concern of the business and that could impair the future.

So how do you protect all survivors? By having an Operating Agreement with a Buy Out provision. This is a legal document drafted by an attorney that establishes enforceable rules for the business, including how to handle an owner's death or disability.

Two parties actually need to be protected: the surviving owner(s) and the surviving spouse. A spouse likely has no expertise in the business yet would want the fair market value of his/her spouse's share in the business in cash.

The Operating Agreement would outline the legal transfer of the shares of the deceased to the surviving owners who would "buy out" the surviving spouse. Now the business has only experts running it and the surviving spouse has the value in cash.

To ensure the surviving spouse gets fair market value, the Operating Agreement would establish a business valuation which should be reviewed periodically.

Who do we want to protect if a business has only one owner? Just like with multiple owner companies, the surviving spouse (if any), the employees, and the businesses customers.

Keeping the business in business does that but you'd need someone with an expertise in the business to run it. The most logical person to transfer the business to is a key employee. If that's not an option, possibly any of the surviving children or even the surviving spouse. If all else fails, having some agreement with a competitor can protect the business and everyone concerned. So if any of these options can work, a legal agreement can outline the transfer of the business so the surviving family would get the fair market value of the business in cash.

So how do you fund a buy out? Insurance is the most logical answer. Purchasing life insurance on the owner(s) will result in having the funds needed to buy out the surviving spouse or owner(s) and disability insurance to buy out a disabled owner.

The important details on how to set up the plan and insurance policies is beyond the scope of this brief article, which only outlines the basic mechanics. What's most important is to start to plan for your business continuity now.

Since 1985, Ed Gaelick, CLU, ChFC, has helped people protect their families, their assets, their businesses and their employees. He specializes in life, disability and long term care insurance, employee and executive benefits. Ed has exceptional knowledge, integrity and a commitment to being relevant to his clients. Throughout his career, he has received many of the highest professional honors awarded in the insurance industry and is the go to insurance expert for various organizations.
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