

Three tips for every business owner

Owning and operating a small business is challenging. Most small business owners' planning strategies are centered around the success and growth of the business. In many instances, juggling the various roles within the company to maintain the momentum of the business result in other important planning concepts being overlooked.

The three most commonly overlooked planning concepts involve ownership, retirement savings, and succession planning.

Have the right ownership structure in place

How a small business is structured – specifically the ownership – can have a significant impact. It is imperative to review the various ways in which a business can be owned, to ensure ownership is structured appropriately. Ownership structure will impact taxation, creditor protection, and how the valuation of the business will ultimately impact estate planning.

Recent tax legislation may make it more compelling to own a business in the form of a pass-through entity, such as a Limited Liability Company (LLC), but this may not be appropriate for all businesses.

Ownership and titling of assets, including a business, will drive other tools a business owner may need to provide in order to allow for creditor protection. The way in which businesses are structured have become more complex over the years.

It is important to consult with an attorney and advisor to consider the appropriate ownership, and if changes in the business or other planning objectives would make it advisable to reevaluate the current structure. This may help to better understand the benefits and risks associated with being set up as an LLC, sole proprietor, partnership, or corporation. In some instances, it may be appropriate for additional estate planning to be incorporated into the discussion.

Remember to save enough for retirement

It is not unusual for a business owner to overlook their own retirement savings. Revenue is typically reinvested in the company, rather than set aside for retirement. When this happens, the owner often overlooks the tax advantage and savings strategy of different retirement plans that may be available.

Determining the appropriate retirement plan is dependent on several factors, such as number of employees, income generated, and potential participation from employees. There are several types of retirement plans to choose from and the options can be overwhelming. Having an appropriate plan will provide a savings tool for the owner and their employees. In addition to tax advantages, it can also help to attract and retain good employees.

Some commonly used retirement plans are as follows:

- SEP IRA (simplified employee pension plan)
- SIMPLE IRA (savings incentive match plan)
- Self-Employed 401(k) Plan

The above-named plans are typically used in instances where there are employees of 100 or less. The plan utilized will impact contribution limits and the employer's potential obligations. Owners of larger businesses can also take advantage of their retirement plans. However, these plans can become more complex as the business grows.

Create a business succession plan

The importance of creating and maintaining a business succession plan cannot be overstated. An estate plan should address all the assets of one's balance sheet. For business owners, typically the largest asset is their business.

Succession planning addresses how a business will be handled upon the owner's incapacity and death. These discussions are often avoided, as they are emotional and challenging decisions. Potential options typically include transferring the business to the next generation or selling to a partner or outside third party.

In addition to the transferring of business ownership at death, there are also ways to transfer a portion of the business during life. While the federal estate tax exemption has been at historically high levels, gifting a portion of a business during the owner's lifetime can be part of one's plan to provide for estate tax savings. Although the 2021 federal estate tax exemption is \$11.7 million per individual, in some states there continues to be a significant gap between the federal and state exemption amounts. For example, the State of Illinois exemption is only \$4 million per individual. Additionally, under current estate tax legislation, the \$11.7 million federal exemption is scheduled to sunset in 2026. If no changes are made at that time the exemption amount will revert to \$5 million¹.

Planning for this gap cannot be ignored. Large valuations of businesses can lead to a significant state and federal estate tax obligation. Given the lack of liquidity of most businesses, the tax obligation needs to be considered. Insurance can be a good tool allowing for the cash needs for tax obligations and potential buy-outs.

A few things to consider when thinking about a succession plan:

- Would the next generation be interested in carrying on the business?
- Are your intentions for the business known?
- Would the named successors carry out the same vision?
- Can family disagreements be avoided?

Without proper planning, the consequences can be significant, including:

- Estate taxes that otherwise could have been avoided
- Probate or court fees
- Delay and potential litigation because of disagreements between family members or other partners
- Insufficient liquidity to provide for tax obligation leading to decisions and financing needs that could have been saved

The above is just an overview of some of the items to consider when owning a small business. It is important to consult with a financial advisor, accountant, and legal counsel when making these decisions to ensure that a proper plan is implemented.

¹ <https://www.irs.gov/businesses/small-businesses-self-employed/whats-new-estate-and-gift-tax>

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