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Helping Families Preserve and Protect Assets and Values

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THOUGHT YOU'D LIKE TO SEE THIS:

REVIEWING YOUR BUY-SELL AGREEMENT: A CHECKLIST

A buy-sell agreement is one of the most important documents a business owner can have. Without it, your client or their family may have a financial and/or tax disaster at the worst possible time.

Every successful business should consider a buy-sell agreement and most should have an up-to-date (reviewed with their attorney, CPA and financial advisor every year) fully funded document.

Even a business with only one owner should consider a buy-sell agreement. These so-called—one-way buy-sell agreements—are usually implemented in proprietorships or single-owner corporations, or LLCs between the owner and a key employee, or between the owner and a friendly competitor. They are called "one-way" agreements because they're only triggered in one direction—if something happens to the current owner of the business. The buy-sell should be coupled with a stay-bonus plan for the key employees to be sure that there is something to sell in the event of the death of the sole owner.

Here are some things your client should consider:

- Is your client's buy-sell structure appropriate under the circumstances?
- Does the document contain all the necessary buy-sell "triggers"?
- Does their agreement include a valuation method that makes sense?
- Does their agreement integrate with their personal estate planning strategies?
- Is their agreement properly and fully funded?

What are the biggest mistakes the client can make? The first is not having a buy-sell agreement. The second is not properly funding it. The third is not checking regularly to be sure it's up-to-date. Among the questions you should ask are:

- Who should be doing the buying when a triggering event (e.g. death, disability, retirement) occurs?

- Is the client's buy-sell easy to understand and implement?

- Who should retain control of the "funding mechanism" (cash or insurance) the client(s) or the business itself?

- What triggers (events that cause a buy-sell agreement's buyout provisions to be put in motion) should the client's buy-sell contain?

Typically, a buy-sell will be triggered on an owner's death, disability, or retirement. But also, be sure to consider the impact on the client's business or practice of (a) divorce, (b) bankruptcy, (c) loss of license, (d) force out or firing (what happens if people just can't get along), (e) planned termination, retirement, or (f) third party buyout offer.

CONCLUSION: The client needs a buy-sell agreement that matches their business or practice and tax circumstances and objectives. They need to choose the right structure, and include the right kinds of triggers, so that they anticipate — rather than react to — future business problems and opportunities, and allow their business to continue to thrive.

As always, please feel free to call to chat about these or other financial security issues of importance to you or your clients.

Sincerely,
Weatherby & Associates, PC

Henry C Weatherby