

# Estate and Succession Planning Considerations for Business Owners

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Estate planning is important for everyone but is especially vital for the future success of small businesses. Proactively planning for the death or retirement of business owners removes uncertainty surrounding ownership transitions and allows owners to set their businesses up for prosperity. Here are some key ideas to help you plan for the future:

## Succession Planning

If your goal is to create a business that survives longer than you, plan for your eventual retirement or death as soon as possible. Every business and family situation is different, and it is important to sit down and discuss long and short-term goals with shareholders or co-owners (and family) to decide how the business will be run after the death or retirement of key officers or shareholders. A succession plan will take the uncertainty out of your business's future and is an integral part of any owner's estate plan. You may plan to transfer the business during your lifetime and begin developing and training key employees or family members in advance. Several strategies can also be utilized to balance a business's income and control what happens now, versus in the future while planning for tax liability and the distribution of assets after death. Without planning, control of a business could pass to family members who are unprepared or disinterested in continuing the business.

## Life Insurance and Buy-Sell Agreements

A buy-sell agreement is a common strategy where one or more owners enter into a binding contract to sell their share of the business to the other owners or shareholders when a death occurs. This agreement is often coupled with a life insurance policy used to fund the purchase of shares from a deceased shareholder's estate, trust, or family members. This allows shareholders and owners to agree in advance how voting rights, controlling interests, and financial interests are distributed. Purchasing adequate life insurance for key members of the business is an essential part of business planning for the owner, the owner's family, and the business itself.

## Trust Planning and Probate Avoidance

Probate involves the court-supervised administration of a person's property after death. It can be cumbersome and costly depending on the size and type of the estate and whether or not the person died with a will. Trusts, both revocable and irrevocable, are a common estate planning method that removes the need for court involvement after a person dies. Instead, the property owner or "trustor" transfers property or assets into a separate entity, the trust. When the trustor dies, the trust owns the property, which is controlled by a trustee and disposed of or distributed according to the written terms of the trust. Trusts are common vehicles for business interests and can allow significant creditor protection for business owners.

## Tax Considerations

Alternatively, some types of assets, including business interests, can be registered to transfer on the owner's death to another person without the need for court approval. Transfer-on-death, or "TOD," designations can minimize the time and expense of administering a decedent's estate with court supervision after death. But remember — the business's articles of incorporation, operating agreement, or other key documents may govern the disposition of ownership

interests at death regardless of how an owner designates the transfer of assets via trust, transfer on death designations, will or otherwise. A holistic estate plan is essential to ensure a business succession plan is effective.

As all owners know, planning for tax liability is crucial to running an effective business. Depending on your business's size and structure, you may owe estate taxes after your death. In 2026, the estate tax lifetime exclusion amount is expected to drop from its current historically high levels. Acting now to utilize the higher lifetime exclusion amount with transfers during life can minimize future tax liability on taxable assets within a business owner's estate at death, depending on the business type.

Estate planning for business owners can add security and predictability to the future of your business and your family's financial well-being. There are many options available, and planning for the success of your business includes planning for your business after death.

*If you have questions regarding estate planning and how it affects your business, contact [David](#) or a member of the [estate planning team](#).*