

## Business Succession – The Family

### The healthy ownership transition to new shareholders and management

by Howard Simmons

*It's not easy to walk away from a lifetime's work. As you begin to think about retiring, evaluate some of the options that will ensure that your business is in the hands of someone who has the same commitment to its continuance as you do. The first consideration is usually someone in your family or someone else you trust. If this is not feasible, then selling on the open market may be the route you must follow. Even if you don't plan on retiring soon, it makes sense to start thinking about a succession plan and considering all options available.*

#### few survive

Few family businesses survive to the second generation, and even fewer survive to the third generation. Lack of planning is the leading cause of failure. Starting the exit strategy process early not only ensures that all options can be explored, but also provides an opportunity for those taking over ownership and operating control to become well integrated.

Working with us, we can assist you to develop innovative solutions to increase business survival opportunities, assure the greatest possible estate liquidity, minimize family conflicts and maximize planning flexibility for you and your family.

#### start now

Starting the succession-planning process early – preferably starting now will allow you to properly explore all your options.

#### what's your business worth?

Only by understanding the value of your company can you make a sound judgment about which direction to go from a succession standpoint. This is necessary, since passing on control of the business involves transferring ownership of assets. Your accountant can provide a starting point for figuring out the company's value or we can refer you to valuation experts.

#### your exit strategy

Decide how quickly you will exit the business, and how this will take place. The further ahead you plan, the more options you can evaluate.

#### choosing a successor

You will need to designate an appropriate family member or members to take over ownership and leadership of the business. This can become a stressful and complex process with emotional and strategic issues to be considered. In some situations you may be forced to look outside of the family circle, which brings with it its own unique pressures and requirements.

From a business perspective, lenders and to some extent customers tend to look more favourably on successors who have both industry and management experience, and on companies who maintain their management teams. So, your decision will affect not only the relationship between family members, but also the company's ability to obtain support in the future. This underscores the need for objective input when selecting and grooming your successor.

#### an appropriate transfer method

With the groundwork finished, you can start to work on the mechanics of how to transfer ownership of the business. Obviously taxation is an important factor. The most appropriate transfer method actually depends on several factors, including your personal plans and the financial situation of the business, and the taxation results of the transaction. We can guide you through your decision process and provide an opportunity for you to connect with other related experts.

# Business Succession – The Family *(continued)*

## make them part of the planning process

As part of their preparation to take over ownership, make sure that members of the family who will be involved in the leadership of the business take part in the planning process, helping to ensure a smooth transition.

## selling your business

If you are listing your business for sale rather than transferring ownership to family members, you need to consider how best to position it to maximize the value or benefit. Apart from the obvious need to sell a business at the point in time when company dispositions are likely to be successful, you need to ensure the business is appropriately prepared for your exit.

## grooming and ongoing support

Preparing the new owners for the task not only involves familiarity with your business, but ongoing support in all aspects of business management. Some of these can be vital and very specialized. We provide insight, information and ongoing succession planning mentoring. Through a process of collaborative problem solving, contemporary solutions can be brought to bear on situations facing the next generation of owners of your business.

Succession planning is a process rather than an event. Begin early and seek input from your financial and legal advisors to maximize your return and minimize the frustration and unwarranted distractions.

**Howard Simmons is a corporate lawyer who advises entrepreneurial business owners and managers in all aspects of business structure, growth and ownership transition.**

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### Does your business have a succession plan in place?

A negative response to one or more of these is a good indication there are opportunities and benefits to be derived from discussing a more disciplined approach to your exit planning process with us:

- Have you defined your personal goals and vision for the transfer of ownership and management?
- Is your successor identified?
- Is your successor in place?
- Have you considered the importance of family involvement in leadership and ownership of the company?
- Are you currently using techniques to reduce or eliminate taxes?
- Do you have enough liquidity to avoid the forced sale of your business?
- Do you have a “buy-sell” agreement?
- Do you have a contingency plan should you become disabled?
- Have you considered alternative corporate structures or stock-transfer techniques to help you achieve your succession goals?
- Are you dependent upon your business to meet your retirement cash flow needs?
- Have you had your business valued recently?

Simmons da Silva & Sinton provides legal services to entrepreneurial business clients and individuals. At a personal level, we assist clients with all matters relating to family law, including mediation, collaborative law and court-contested proceedings. We also advise as to the preservation of wealth, Wills and estates. For more than thirty-three years our reputation has been built on being astute problem solvers and providing common sense solutions to the legal issues confronting our clients.