

MIKE HENNING'S

“ALL IN THE FAMILY” COLUMN



The “Big” Fat Difference Between Succession and Estate Planning

Estate planning is essentially a “death plan,” or what happens to your property, land, buildings, acres, house, business and all other possessions upon your demise. It is the forming of a plan of intent as to the disposition for your things. Who will end up owning your household goods, automobile, SUV, clothes, condo, lake house, horse, collection of rare or expensive cars, etc.? It is a well-recognized fact that tax and estate management is a concern when working on a total succession plan. After all, you could be in an accident and die, have a heart attack and die, or be inflicted with a tumor and meet your maker long before your natural time is up.

The tools typically used in forming an updated estate plan that will treat family members equitably while minimizing estate taxes or capital gains taxes, if the estate tax is eliminated, are as follows: Last Will and Testament, A-B Trusts, forms of revocable and irrevocable trusts such as a living trust or a charitable trust, durable power of attorney for health care or personal business & finance, buy-sell agreement, limited partnership and life insurance. It is common to see many of these tools used by attorneys in the estate planning process.

One highly visible area of estate planning is developing “equality” in a plan for members of the next generation. While parents search for what is “fair,” the children maintain that the parents can do as they please with what belongs to them. Attorneys can be of great support and guidance with this topic in some cases, but with the more intense situation, they tend to shy away until other advisers determine the matter of equitable division.

The point is this, estate planning is squarely forming a plan of action to avoid probate court, minimize taxes and pass one’s belongings to a spouse or members of the family upon the death of a senior generation person. Again, it is primarily “death planning.”

Succession Planning

Succession planning is a series or course of events that follow each other in some order. It is the act or right of succeeding another as part of a series of events. Succession planning is all about the plan that addresses the question, “What happens if I live?” Typically, you can measure success by looking at how you have handled the challenges of retirement, teaching the successor(s), organizing the future management team, addressing and handling family disputes, passing assets and control to members of the next generation, and by maximizing the efforts of each family member involved in the company while meeting the goals of the company and not losing anyone in the process.

Organizational skills and plans typically applied during the succession planning process include rules for family members entering the business, teaching family members what

the business does and how they might make a career in it. Also included is employee, management and leadership development, career counseling for relatives not interested in the family enterprise, choosing the next leadership model, preparing the senior generation to let go, making sure the parents have financial security, and determining the role for key non-family personnel. Other common issues addressed are an employment policy for family members, compensation arrangements, positions & titles, establishing a process by which all might get along both inside and outside the business walls, communication, time spent on the job and who is capable of being the leader.

Another key area normally included in the succession planning process include creating governing bodies for the business and the family. Commonly an active board of directors is put in place to govern the business, and a family council is organized to govern the business of the family. Strategic business planning sessions are held to create a new vision on behalf of members of the next generation and give them direction for the future. Professionals, whose guidelines are approved by their own governing organizations, and the Internal Revenue Service perform an evaluation of the business itself in preparation for their transfer.

Summary

It is our observation that succession is truly a “womb-to-tomb” process. The business tends to become another child in the family, a sort of “being” itself, if you will. Parents exhibit their values, work ethic, discipline and much more to their children as they grow up. Whether the high school graduates go on to college, the military service or enter the world of work, they continue to prepare themselves for a career in the family business. Once they enter the business many expectations become part of their lives. Everyone is watching them to see how they will perform on the job, how they will react to Dad or Mom when asked to do undesirable jobs, asked to stay late or come in early. They will be asked to be better than all the others, to lead the way, to prepare for management and future leadership. They will be asked to sacrifice time with their family and other activities they enjoy. They will be asked to be successful, long-term.

If members of the next generation stay with the family business, eventually the value of the company will be determined professionally, stock will be passed in some form to them, parents will back out of the business situation and turn control over to them. All documentation mentioned above will be addressed; direction determined and signed off by all involved. In the meantime, members of the family must support the retiring parents both financially and emotionally. As a new day and generation for the family and the business dawns, new visions supported by a mission and goals are put in place for all to see and work to achieve. Then, the process begins again.

Yes, succession planning is quite different from estate planning!

This article appeared in Mike Henning's Family Firm Advisor newsletter, for more information about receiving one free copy of our newsletter, visit us at our web site: www.mikehenning.com. e-mail: hfbc@mikehenning.com, or call -- 217-342-3728. Mike Henning is a nationally and internationally respected consultant and speaker on family business issues.