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WHAT HAPPENS WHEN A BUSINESS OWNER DIES & HOW DO YOU PROTECT THE BUSINESS?

What Happens When A Business Owner Dies?

While all businesses are different, a common theme among most is that there is a person in charge. So what happens if that person in charge passes away? Family businesses are typically passed down through generations with the help of succession planning, and other business structures have plans in place that describe processes and procedures involving the death of an owner. Below are the four common business structures and how each of them is most likely to handle the death of an owner.

Sole Proprietorships

A business that is a sole proprietorship will typically cease operations if the business owner dies. The company's assets would be considered part of the sole proprietor's estate, and from that point, the estate of the owner is distributed based on what is in the owner's will.

Partnerships

Many different business structures are considered to be partnerships, such as a standard partnership, a limited partnership, or a limited liability partnership (LLP). With formal partnership agreements, the deceased partner's shares transfer to their estate upon their death and go to the partner's heirs. While they still have shares, these family members are unlikely to participate in the managerial interests of the business. If no formal partnership agreement exists, the death of one business partner legally ends the partnership, and the business does not continue.

Limited Liability Corporations

Unlike sole proprietorships, limited liability corporations (LLCs) are expected to have a plan in preparation for the death of the business owner. This plan should outline what happens to the business itself, who can have shares of the company, and who can have managerial interests. Suppose your father is the owner of an LLC and passes away. If you are the sole heir of a business where the LLC owner dies, you can also make choices. Depending on state law or probate court precedent, sole heirs of LLCs can choose to either keep the business going or end it.

Corporations

Corporations and S corporations (businesses that have elected to pass its corporate income, losses, credits and deductions to its shareholders to include on their tax forms) are *not* expected to automatically cease activity in the event of the business owner's death. Rather than stopping business activity, the owner's estate becomes the business owner so the business can continue to function until

more long-term solutions are implemented.

The Importance Of Planning For What Happens To The Business Upon Death Of The Owner

It is essential for business owners to create a buy-sell agreement that will outline what should be done in case of an owner's death. Without a buy-sell agreement, the personal trauma that a widow, widower, or children experience dealing with their loss can make the process much more taxing. Conversations before the death of a business owner can allow for open dialogue and communication with all members of the business. It is also important to remember the role that life insurance can play in the event that the business owner or co-owner dies. Instead of requiring the cash to come out of the business to buy out shares of the business, typical death clauses involve purchasing life insurance on behalf of all of the owners. Upon their death, the life insurance payout settles the estate.

How We Can Help Protect The Interests Of The Business

The Exit Consulting Group works with our clients in all types of business situations. We can help facilitate the development of buy-sell agreements and operating agreements, which ensure the business and its co-owners are represented fairly in the circumstances of an owner's death. Whether you need assistance creating a comprehensive buy-sell agreement or advice from a personal representative on how to sell the business and remaining assets of the late co-owner, we can help. With the service of our skilled strategic partners, we can provide you with a business valuation, help create an exit plan, mediate negotiations among business associates, and more.

Providing Solutions That Get Results

Challenge Example:

Ron's wife passed away, and he decided to sell their small business and allow the general manager to be the new owner. However, he had no buy-sell agreement in place, no insurance, and no strategy. His wife was the largest revenue generator, so can the business be valued? He was distraught and in need of money but didn't know how much the company was worth or what next steps to take. He struggled with understanding exactly how to transition the small business to the general manager and wondered if he should sell the business altogether.

Solution Example:

We at Exit Consulting Group worked with a trust attorney and the general manager to negotiate the price and terms of the transition. The general manager taking over was respectful, considerate, professional, and appreciative of the opportunity. Ron was open to creative ideas, options, and solutions, so both parties were pleased with the end result.

Result Example:

Our Exit Engineers were able to negotiate the sale of the business to the general manager with a plan in place for them to pay over a period of time. Ron successfully sold the business and acquired the funds he needed to move forward with his life.

Protect Your Business Before It's Too Late

The death of a business owner can create uncertainty, stress, and financial risk for families and co-owners. With the right planning, buy-sell agreements, succession strategies, and insurance, you can safeguard your company's future and ensure a smooth transition.

Contact us to create a plan that protects your business, your family, and your legacy.

FAQ's

Can A Business Continue After Death?

Yes, most businesses continue after the death of an owner. However, a sole proprietorship business is least likely to continue. A sole proprietorship is considered an asset and part of the owner's estate, so their will determines precisely what happens to the business. On the other hand, corporations are most likely to continue on.



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