



What if I Die? Estate Distribution

Every business owner must realize that estate planning objectives are not the same as lifetime objectives. Death can come unexpectedly so plan properly for the future today.

In planning an estate, there are five main objectives:

1. The need to provide financial security for the family
2. The prevention of the business from becoming a burden to the surviving spouse
3. The fair distribution of the estate to the children
4. The avoidance of giving of too much to the children too soon
5. The minimization of the estate taxes

Taxes, wills, trusts, trustees, executors, etc. are all important to consider when it comes to estate planning, but there are "soft" issues that need to be factored in too. For example, the business owner needs to make sure that the work ethic of his children will not diminish because they have inherited wealth. There are ways to prevent this from happening. Namely, maintain open communication with your children. Let them know what you expect from them once they receive their inheritance. Teach your children to be charitable. Teach your spouse how to be a widow or widower. Make sure that your family knows what it needs to about your business and other assets.

Be prepared. Review all executed estate planning documents on a regular basis. If you have special wishes for certain employees, make sure that they are documented and communicated to your family. Write your special thoughts down to loved ones so that they may read these thoughts after your death. Run your business in an orderly fashion to avoid unnecessary legal costs upon your death. When you select your estate planning attorney, choose the proper one. You want the attorney to be knowledgeable, but also competent at communicating with your family when you are no longer here.

Another primary concern is to counsel with your advisors regarding how your family will receive income upon your death. Obviously, your spouse cannot just walk into the office and ask your bookkeeper for a check. Decide now what you want to have happen to your business upon your death.

Should the business be retained, sold or liquidated? Who is going to assist your family in carrying out your wishes?

Regarding children, if your plan is to have them succeed you at the business upon your death; make certain that your estate plan reflects this. When it comes to children, our mantra is "you have to be fair; you do not have to be equal." As a case in point, if you have a child with who is working hard to help you grow the business now, that child should have the first shot at running it after your death. This child should not have to take on uninvolved siblings as partners. In fact, this is a recipe for disaster. Moreover, you do not have to equalize the children not involved in your business with other assets. They *should* get assets besides the business, but they do not have to equal the value of the business. Often the child invested in the operations of the business has – over time – contributed to building the business. Therefore, distribute assets fairly. Remember that your main concern as a parent is that your children continue to have Thanksgiving dinner together when you are no longer here.

Another challenge: often parents leave ownership to children who are not actively involved in the business. There is no way that active and inactive siblings are going to have the same agendas. In another common scenario, we see parents leave the business to the active children and the real estate where the business is located to inactive children. This is also a mistake. When the conflicts inevitably arise between siblings, watch how fast the active children move the business location when the opportunity presents itself.

Without a proper estate plan, estate taxes could force the business you have spent a lifetime building into liquidation with your survivors guessing about how you wanted your assets distributed. By creating an estate plan now, you control how things will be after you are gone. In doing so, you protect what you have worked so hard to create. Sit down as soon as possible with a competent tax attorney and start the process! **S**

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