

Business succession planning – preserving more than just legacies

BY SARAH ESCOLAS SPECIAL TO THE RBJ



Escolas

FOR CENTURIES, Rochester has been provided fertile cultivation ground for business and individuals in pursuit of the American dream. If you have vision, work hard, take action and are persistent you

can turn ideas or dreams into a successful business that can provide excellent generational careers and financial stability while being a catalyst for our local economy.

It's no secret that, to grow a business and stay competitive, business owners must be future-focused and willing to adapt. There is one key critical area that impacts the future of the company that 70% business owners often fail to properly address: Succession planning.

Notable family business statistics:

- 90% of US businesses are either family-owned or controlled.[1]
- 62% of the country's employment is generated by family-owned businesses.[2]
- 65% of business owners who responded to the PwC 2021 Family Business Survey cited a top priority for the business was ensuring the business stays within the family.
- 30% of business owners who responded to the PwC 2021 Family Business Survey reported having a comprehensive succession plan in place.
- 40% of small businesses are owned by baby boomers.[3]
- Nearly 60% of baby boomers do not have a succession plan.[4]

- Historically, 30% of family-owned businesses make the transition into the second generation, however since 2018 the success rate has declined to 19%.[5]

As an estate planning attorney and mediator, I often see the repercussions from the absence of a succession plan. Issues typically start while the owner is living and compound exponentially after the owner's passing.

A succession plan should include:

1. Daily operations: If the owner's goal is for children to assume control of the business, formulate a plan to train them. If the children do not have the desire or the skills/experience necessary to operate the company, implement a plan that will ensure competent non-family individuals will have the authority to operate the business.
2. Open and honest communication. Discuss with family the company's vision for the future and where they fit in. If family members have a desire to take over the company but you feel they are ill-equipped to do so, it's imperative to tell them sooner than later.
3. Tax savings strategies: A large estate tax can force the sale of a company, formulate a plan for how they can be minimized and/or paid.
4. Review periodically: An effective succession plan needs to adapt based on the company's vision.
5. Short-term/Long-term circumstances: Often business owners feel they cannot put a succession plan in place because their children are too young or due to a potential divorce within the family. Those concerns can be addressed.

There are circumstances where what not to do is as important as what to do, and succession planning is one of them. Often business owners believe having a Last Will and Testament and leaving the estate to all their children in equal shares is sufficient. However, doing so can have unintended consequences. Treating your children equally does not necessarily equate to fairness or stability. If the children have not been equally involved in the operations of the business, naming them as equal beneficiaries will likely drive a wedge among them which may never be repaired. Be decisive and take actions while you are living to ensure your family stays intact after you pass.

When clients meet with me to discuss their estate planning goals, I explain one of the greatest gifts you can give your loved ones is to have your planning done so that they will not have to scramble at the time they are grieving. Imagine having two healthy, vibrant, energetic, giving parents one minute and in an instant, losing them to a tragic accident. Now, imagine what it would be like to have to step into the shoes of your parents and take over control of a business in that same instant. Ken Glazer, chairman & CEO of Buckingham Properties,



Glazer

unfortunately does not have to imagine because he experienced it when his parents were tragically killed in a plane crash in 2014.

For instance, provide guidance and explain: "Here is your co-trustee, here are your attor-

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— **KEN GLAZER**

neys who are going to help you.” By putting a succession plan in place AND by communicating that plan to your children, your children will be more equipped to take over the business when the time comes. “Don’t put difficult or complicated decisions on your kids,” Glazer added. “If those are spelled out in an estate or business succession plan, it will go a long way in easing the pain and burden on the family,” he said.

Rochester is home to several multigenerational family businesses that have not only successfully transferred the business from one generation to the next but have thrived while doing so. One such company is Adrian Jules Custom Clothier which is a third-generation family run business, initially founded by Adriano Roberti in 1964. They design and manufacture high end, hand tailored custom clothing for not only

local Rochesterians but professional athletes and celebrities all around the world.

As a third-generation master tailor and owner, Peter A. Roberti knows the importance of proper succession planning and understands for businesses to succeed, they need to adapt. Peter explained his “father and uncle had put certain things in place over time, but as we have grown and evolved with more family involved and adding corporate divisions, it was vital to



Roberti

update our succession and estate plan to meet the new complexity of our business,” Roberti said. “We would like to be in a position to be able to look in a mirror and say we have done everything in our power to make sure the business operation will continue if something should happen to any of us,” Roberti added. “As we transition from generation to generation, our legacy is the most important. We want Adrian Jules to be around for our kids and their kids,” he said.

In addition to corporate and tech industries, our area is surrounded by family farms and vineyards that have been passed down from one generation to the next. Transferring family farms from one generation to another can be particularly difficult. The ownership of the land carries with it a sense of pride, sacrifice, and responsibility. Families are often at odds with how the farm should operate and/or whether the land should be sold. The Yunkers are one family who has had phenomenal success with continuing to operate their farm and expanding their operations and creating sister companies.

Craig Yunker, managing partner of CY Farms and Batavia Turf in Genesee County, N.Y., has learned this through



Yunker

decades of experience in the agriculture industry. “Inadequate estate and business succession planning is unfortunately common among small businesses in general and even more prevalent in the farming and agriculture community,” he said. “Farming is obviously a capital-intensive business, often with low liquidity, which can present difficulties in settling estates and other tax obligations,” Yunker added.

Based on his experience, Yunker has found, “Farms are often multi-generational, family run operations, which can complicate their business succession planning, especially if some members of the family aren’t vested in the day-to-day operations, and or have different visions/interest for the future of the farm.” Yunker explained, “If the eldest, most involved farmer dies, and a proper plan isn’t in place, it can create family friction, uncertainty and ultimately result in a farm (or the land) being sold, rented or bankrupted.” Especially given the current real estate market, the value of land can be substantial which can trigger estate taxes but there are often minimal liquid assets available to help sustain the farm and pay the estate taxes resulting in the farm being sold.

As Benjamin Franklin once said, “If you fail to plan, you are planning to fail.” If you are a business owner reading this, you owe it to yourself, your business, and your family to ensure your business will operate well into the future.

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