THE DAILY RECORD

Estate planning strategies for business owners

Many have no formal plan in place

By: Pete Pichaske Special to The Daily Record December 17, 2015

Think estate planning is hard? Try doing it as a business owner.

Besides the usual worries about who gets the house and the jewelry and the cash, business owners face a cluster of additional concerns, all centered on the often emotional question of what happens to their beloved business when they're gone.

"There are so many different strategies for continuing the business [after the owner retires or dies] that it is absolutely more complicated than your basic estate plan," agreed Howard "Buddy" Goldman, director of estate and business planning for Northwestern Mutual in Maryland, and a wealth management adviser.

To make matters worse, many owners are so focused on growing and maintaining their business that they put off figuring out what will happen when they're gone — sometimes until it's too late.

"I see it all the time," Goldman said. "Often, it's the largest asset they have and the most important one, something they put their blood, sweat and tears into building. ... But so often they have no formal plan" for when they retire or die.

One of the first steps in sound estate planning for business owners, financial planners say, is to determine the value of your business, which is essential to figure out the tax issues your heirs or business partners will face.

Russell Weber, senior vice president for wealth management at UBS Financial Services, in Cockeysville, recommends that businesses get an expert valuation, ideally by a CPA with a specialty in the field, every three to five years.

Since the goal of estate planning, Weber explained, is to make sure as much of your estate as possible gets to your heirs (instead of the government), the worth the business is crucial. Under federal law, estate taxes kick in if a person's total assets exceed $5.4 million. For a couple, the threshold is double that, which is why Weber says that $11 million is a key business value for many family business owners. If the business is worth more than that, careful planning is especially important.

That $11 million figure will take on more importance in the future for Maryland business owners, according to Smith. The state threshold, now set at $2 million per person, is set to gradually rise over the next few years until it matches the federal threshold. The rising state threshold, which will be $3 million next year, already is helping some small business owners.

"I used to meet with people whose only thought about estate planning was how do I pay as little estate tax as possible," Smith said.

Allowing a larger tax shelter "clears the path for getting to the actual nuts and bolts of what you want to have happen, who you want to get your money and your business. ... It makes it easier to deal with some of the things that really are more important."

Another important initial step in estate planning, especially for small business owners, is to decide if you want your business to continue after you die, whether with family members or with partners. If so, you need a succession plan spelling out what you want. Many advisers recommend a buy-sell agreement — a binding, written contract between the owners and whomever they want to take over their business.

Such agreements are less common with businesses that will remain in the family, advisers say, but even in those cases, the proper estate planning documents are needed. In fact, businesses that remain in the family can create more headaches than those that do not, as the owner has to balance the interests and needs of various family members, some of whom probably are more interested in the business than others.

Goldman said he once worked with a couple who owned a large chain of stores and had six children, including a son who essentially ran the company. The father wanted to leave the business to all six children, but the one working there argued that was unfair and said he would quit if that happened. So the father, with Goldman's help, decided to leave the business to that son and the rest of his assets and cash to the other five children.

"It worked out great," Goldman said.

When doing estate planning, business owners also should consider a good power of attorney agreement in the event they are no longer capable, physically or mentally, of running the company.

"It's a critical document for everybody, but especially business owners," Smith said, noting that with people living longer, dementia and other ailments render more and more incapable of making the best decisions.

As complex and emotional as it can be, financial advisers say that careful estate planning is especially important for business owners, who need to make sure the business they put so much into has the future they want after they're no longer around to run it.

Goldman's advice: Get started now, no matter how young you are. If you don't, he warned, you and your heirs might regret it, as the government or the legal system might end up playing more of a role.

"If you don't do a plan, something is going to happen (to your business), and there's a good chance it won't be what you ideally wanted," he said. "Don't wait until tomorrow, because there's always another tomorrow."