

# Business Continuation Concepts

## A Dilemma...

- ❖ When a business owner dies, a myriad of potential problems can occur.
- ❖ The surviving owners want to (1) retain control of the business without interference from the deceased owner's heirs; (2) enact a prompt transfer of the deceased owner's interest at a fair price; and (3) preserve the loyalty and support of employees, customers, and creditors during and after the transition in ownership.
- ❖ The deceased owner's heirs want (1) ongoing financial security after the loss of the deceased owner's salary and benefits; (2) either retention of the business interest or a timely sale at an attractive price; and (3) prompt settlement of the deceased's estate (including proper tax valuation of the business interest, if they plan to sell it).

## The Reality...

- ❖ Conflicts and possibly even litigation might arise between the deceased owner's heirs and the surviving owners.
- ❖ Delays in the transition to successor ownership and in settling the deceased owner's estate might be inevitable.
- ❖ Any loss of customers, employees, or creditor confidence can damage the business—and possibly even force its liquidation.



## The Solution...

- ❖ A formal, written buy-sell agreement among the business owners is the first step in assuring an orderly and successful transition in business ownership following an owner's death.
- ❖ The agreement sets a fair price for the business interest and terms of sale that are reasonable to all parties.
- ❖ The price established in a buy-sell agreement typically sets the value for estate tax purposes, which helps to avoid estate settlement delays and IRS challenges.
- ❖ If the owners are related, they should obtain a professional appraisal of the business. See your legal counsel for advice on this subject.
- ❖ An existing buy-sell agreement encourages confidence in the ongoing vitality of the business in the eyes of customers, creditors and employees.

## The Bottom Line...

A properly designed and funded buy-sell agreement satisfies the legitimate concerns of all parties involved by assuring business continuation that benefits sellers, buyers, employees, customers, and suppliers.

When a business owner dies, the consequences depend to a great extent on how well the business prepared for such an event.

### **What the Surviving Owners Want**

The surviving owners typically look to retain total control of the business without interference from the deceased owner's heirs.

They may also hope the heirs promptly sell them the deceased owner's interest at a fair price.

They want to retain the loyalty and support of employees, customers, and creditors during and after the change in ownership.

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