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Exit Planning NAVIGATOR

Exit Planning Strategies for the Entrepreneur

Issue 61

Continuity of Ownership

The First of an Owner's Business Continuity Concerns

Most, if not all, business owners have been approached by at least one of their advisors with the ever-popular question, "What would happen to your business if you died or became disabled?" Few business owners fail to recognize this question for the thinly-veiled pitch to buy insurance that it is.

Our goal is not to discourage you from buying life or disability insurance. Far from it. Purchased in the proper amounts and for the correct reasons, life and disability insurance proceeds will, indeed, help your business to survive your sudden absence. Insurance alone, however, cannot resolve all of the three primary issues that face every business when owners go AWOL. Let's identify the three primary continuity issues and examine possible solutions.

Issue 1: Continuity of Ownership for Co-Owners

The most obvious business continuity issue is: Who will succeed you in ownership? If you co-own your company, an up-to-date, adequately funded, buy/sell agreement that completely addresses all of the possible transfer issues can solve this problem. Please pay careful attention to all of the qualifiers in that last sentence. First, "up-to-date" means that the agreement reflects the current value and structure of your business. It also means that you and your co-owners don't sit down once, discuss continuity, and shove the resulting agreement in a bottom drawer, never to be removed again. Second, "adequately funded" means that one of your advisors has analyzed what the company's financial needs would be in your absence and has made sure that adequate funding is in place. Third, your agreement must *fully address* a list of "possible transfer issues." This list includes:

- Death
- Disability
- Transfer to a Third Party
- Termination of Employment
- Retirement
- Involuntary Transfer Due to Bankruptcy or Divorce
- Business Dispute among Owners.

Issue 1: Continuity of Ownership for Sole Owners

If you have no co-owner, your ability to ensure continuity of ownership in the future depends on your ability to create and to implement a continuity plan today. Vital to that plan, is the involvement of your key employees. You must create a plan that motivates your important employees to stay with your company even though you do not. One of the best ways to accomplish this goal is to create a stay bonus plan.

A stay bonus is a written, funded plan providing monthly or quarterly bonuses and salary guarantees, usually over a twelve- or eighteen-month period, for employees who remain

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Continuity of Ownership
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with the company during its transition from your ownership to new ownership. (New ownership may be a third party, a transfer to employees or a continuation by family members.) The stay bonus provides a cash incentive for your important employees (perhaps 20 to 50 percent of your workforce) to stay, hence its catch name.

The stay bonus plan is typically funded with life insurance in an amount sufficient to pay the employee bonuses over the specified timeframe. The life insurance may be owned by the company or outside the company in an estate tax-sensitive trust. You must tell your important employees that you've put a stay bonus plan in place so that they know you've put thought, planning and *money to pay salaries* into ensuring the survival of the company.

Your ability to ensure the continuity of your company also depends on your willingness and ability to communicate your continuity wishes to those who will be affected. Completing a "Business Continuity Instruction Form" is a great way to organize and to communicate your thoughts about continuity. If you'd like to read more about sole-owner continuity plans, please email us at kshort@claytoncapitalpartners.com to receive that issue of **The Exit Planning Navigator®**.

In our next issue, we will tackle the second continuity issue that faces your company should you unexpectedly leave: the company's loss of financial resources.

Subsequent issues of **The Exit Planning Navigator®** *discuss all aspects of Exit Planning.*

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