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BEST PRACTICES TO PRESERVE THE FAMILY RELATIONSHIP WHEN TRANSFERRING A BUSINESS TO THE NEXT GENERATION

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PEOPLE

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Disagreements are inevitable in family-run businesses. Family members are not going to agree on everything, and depending on many factors, conflicts can escalate to the point where they threaten both the business and the family relationship. While conflicts can arise at any stage of a business's lifecycle, the transfer of the business to the next generation is a particularly stressful phase that can lead to strife in even the most harmonious families. Here are best practices to help preserve the family relationship throughout the transition and beyond.

START TRANSITION PLANNING EARLY

Succession planning is important to every business's long-term survival. Yet, only a third of family businesses said they had a formal succession plan in place that has been documented and communicated to family members, according to a 2021 PwC study.

It's never too early to begin succession planning. By identifying the future leader or leaders of the company, the founders can articulate their vision to and mentor those individuals in addition to helping ensure they receive other appropriate educational and career development opportunities so they will be prepared to take the reins when the time comes.

DISCUSS SUCCESSION PLANNING WITH FAMILY MEMBERS

Succession planning likely involves management transition and ownership transition. Management transitions can be tricky when there are multiple siblings. There could be disagreement about who should play which role in leading the business. The parents may feel one child would be better suited to run the company, and the siblings may disagree among themselves. Families should address management transition issues early to manage expectations, and to give the siblings opportunities to prove themselves or seek other career opportunities.

In a 2018 MassMutual Business Owners Perspective study, nearly 60 percent of business owners said they planned to divide ownership of their business equally among their children. But this could spark resentment when one child is deeply committed to the company and the others have pursued other career paths. Conversely, when parents choose to transfer ownership only to the next-generation family member who is involved with the business, the other siblings may worry that their inheritance will suffer.

There are creative solutions for transferring wealth fairly among siblings who participate unequally in the family business, and open discussions may help reveal concerns or conflicts that could be addressed in the succession planning process. Parents should express their concerns and intentions at an early stage. All family members should have an opportunity to be heard, which can help prevent future misunderstandings. These conversations can be fraught with emotion, but next-generation family members will be more likely to support a transition plan when they were included in the conversation.

DEVELOP A WRITTEN PLAN WITH GOVERNANCE STRUCTURE

Create a formal, written transition plan with clearly defined goals and dates. Keep in mind that the plan is not set in stone. Businesses, family dynamics and market conditions evolve over time, which may necessitate that the plan be periodically reevaluated and revised. For instance, the pandemic had a major impact on transition plans, accelerating the departure for some company founders to focus on their health and quality of life and compelling others to stick around longer than planned to guide the business through turbulent times.

The written plan should indicate who will fill which role and what their duties and responsibilities will be. The plan should contain policies on matters such as employment of family members, compensation and dividends, while defining the rights of family members who inherit ownership but are not actively involved in the company. Regular family meetings and reports on how the business is doing should be built into the structure, so that all members of the family can have the opportunity to remain informed and share their perspectives whether they are directly involved in running the business or not.

Succession plans also could contain mandatory dispute resolution provisions, requiring mediation and then arbitration. It is typically best for a business to keep family disputes out of a public venue, and in a setting that should give the litigants more control over the process. Requiring mediation as an initial step also could help the parties reach a resolution quickly and in a lessconfrontational setting.

ASSEMBLE A COMPETENT TRANSITION MANAGEMENT TEAM

Transition planning has legal, financial and tax implications, and it's important to build a team of professionals with deep experience in succession planning for family-owned businesses. Attorneys, accountants and financial advisors all bring important perspectives to succession planning and can offer insights and solutions for transferring ownership and management to the next generation. By anticipating potential conflicts and planning how to resolve them, seasoned professionals can offer proactive solutions to not only set your business up for success, but to preserve family relationships for future generations.

SOMETIMES, LITIGATION IS UNAVOIDABLE

Even the "best-laid plans . . . often go awry." When litigation is unavoidable and you find yourself in a legal dispute with your parent or sibling (or both), it is crucial that you identify and hire the right litigation counsel for the job. Your lawyer should not only understand the financial complexities at issue in the dispute, but also should have experience balancing the naturally adversarial aspects of litigation with the unique dynamic inherent in most family business disputes.