

# Plan Well. Live Well. Be Succession Ready.

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You have worked hard to build a business and a reputation. Along the way, you will have encountered and survived a range of challenges – even thrived. There might have been a measure of luck to your success, but more likely it is the result of a combination of factors including having a business plan (even if informal), sticking to it where appropriate and being wise and nimble enough to adapt as needed, possibly with some assistance from professional advisors now and again.

Without realizing it, you were doing a form of business succession planning all along because you were planning to succeed. Succession planning is not about planning to retire and die. Instead, succession planning is about putting in place systems and procedures so that you are always succession ready. This puts you in the best position to recognize and seize opportunities that meet your objectives and timing – not someone else's.

**How the Process Works** – Business succession planning overlaps with the overall estate planning process since business interests often represent a significant part of a person's estate. Therefore, the starting point for business succession planning is a review of the role of business interests in the owner's estate including the proportionate value and ready market for selling or transferring if desired or needed. This is really just the data collection and goal setting portion of the usual estate planning process covered in my [“Plan well. Live well. Leave an Organized Estate”](#) bulletin.

The next step is to consider whether any changes in corporate structuring or tax planning need to take place to ensure that the business interests are set up in a way that match the personal estate planning goals, which are going to include maximizing the value of the business. Additional considerations with respect to maximizing the value of the business include:

- Up to date agreements such as: shareholders agreement, employment contracts, leases, other business contracts
- Protection of intellectual property
- Risk management such as planning for illness, disability or death of key personnel
- Ensuring liquidity for buy-sell agreements

Once you have developed and reviewed options with your advisors, it's time to implement them.

Finally, do not forget to complete your personal estate planning and keep it up to date.

**When to Start** – Today. Make an appointment with a lawyer who specializes in estate and business planning; put it in your calendar and set any related tasks; tell your family, and those you care about, that you are going to get this done – by a certain date.

**Reminder:** Maintaining an organized estate during your lifetime is a gift you give yourself and those about whom you care.

**And, if your business affairs are always in order, you are always ready for success(ion).**

**When to Review** – About every five years unless there is a change in circumstance such as:

- Purchase or sale of major assets or change in financial position of business
- Business restructuring
- Change in market or regulatory conditions for business
- Illness, disability or death of you, business partners or key personnel
- Change of advisors

**Related Advice and Services:**

- Estate planning and domestic agreements
- Charitable gift planning
- Corporate reorganizations and estate freezes
- Tax law advice

**Related Practice Areas** – Estate and business succession planning is part of a broad industry group sometimes referred to as “Private Client” that encompasses several areas of legal practice including:

- Wills, trusts, estates, powers of attorney and guardianship
- Business law
- Real estate
- Family law
- Charities law
- Employment law
- Intellectual property
- Tax law

**Related Planning** – Estate planning is a companion piece to comprehensive financial planning, both of which share much of the same core information and goal-setting exercise to help clients understand where they are and where they are going. When both types of planning are done together, the result is an even stronger foundation to live well and leave an organized estate.

Business succession planning adds extra complexity such as how to withdraw income or capital from the business in a tax effective manner as well as how to minimize tax on the death of an

owner. Therefore, additional planning such as tax and the use of insurance may be helpful. It takes a multi-discipline team of professionals to get the best results.

The information contained in this article is intended to provide information and comment, in a general fashion, about recent cases and related practice points of interest. The information and views expressed are not intended to provide legal advice. For specific legal advice, please contact us.