Six Reasons You Should "Take Care of Business"

Business succession planning helps businesses prepare for the continuation of a company through the transition of management and transfer of control. The oft-recited definition of business succession planning sounds so easy, right? Business succession planning is anything but easy and an art more than a science. Every company is different, and every owner is different. The myriad of personal, tax, corporate and legal issues cause most business owners to start the process and set it aside. Here's why it's essential to see the process through to the end.

1. **No one lives forever.** Even if you plan to work until you die, you'll need to address the company's transfer of ownership and management in your estate plan. Every business owner must plan to avoid probate. Business owners who fail to prevent probate fail the companies that mean so much to them by making financial information about the company available to the public and competitors. The planning necessary to avoid probate can be essential and straightforward. Have you got an excuse now?

2. **Disability can strike at any time.** Do you plan on having a stroke or losing capacity? No one does, but someone in the United States has a stroke every 40 seconds. Do you have powers of attorney in place to avoid a guardianship proceeding? Do you have a formal management transition plan in place? Who is empowered to run the company in your extended or permanent absence? Do you have buy/sell provisions in your shareholder agreements that address disability?

3. **The Disaster of Divorce.** Will you or your partner(s) get divorced? Depending on which statistics you look at, at least fifty percent of marriages end in divorce. Do you want your partner's ex-spouse as your business partner? The company is at risk when an owner divorces. Do your shareholder agreements address divorce and contain transfer restrictions? They should. Are shareholders required to enter into premarital agreements? They should.

4. **Retirement.** Coasting? Think again. A healthy company brings top dollar upon sale. If the deal is your retirement plan, you'll want to maximize proceeds upon sale. Three to five years before the company sells, owners must focus on making sure the company's financials tell story buyers will understand. Manage risk. Seek M & A advice. Without attention to these areas, sales proceeds will suffer, and owners will have fewer resources in retirement.

5. **Management Talent.** Ultimately, the company's success will depend on the competencies of your management team. Skills don't transfer automatically. What are your doing to develop, incentivize and retain management?

6. **Entity Selection.** You will pay more tax than you should without active planning, and entity selection often significantly impacts total income, estate, and gift tax paid. You should also understand if your entity selection offers you proper asset protection.

Your business and estate planning attorney at Carlile Patchen & Murphy LLP would like to review these issues with you. Contact an attorney at CPM today for a free business succession planning checklist.