

## BUSINESS OWNERS BEWARE

Are you a business owner? Are you the first one to arrive in the morning, as well as the last one to leave in the evening? Have your employees ever taken home paychecks while you sacrificed your paycheck to the bottomless pit called *accounts payable*? Have you ever paid your mortgage on a credit card?



Over the years, you have worked through physical, mental and financial pain that would have caused other folks to close shop and look for a *job* elsewhere.

As a business owner you have survived untold challenges. If your business is a *family business*, then you may face some unique challenges to protect and preserve your business ... and your family.

### Some Numbers

It would be an understatement to say that family businesses are the backbone of the American economy. Some 90 percent of all businesses in this country are either family-owned or family-

controlled. They come in all shapes, sizes and colors, representing all sectors of our economy. From agriculture to services, technology and manufacturing, family businesses generate an estimated one-half of the U.S. Gross National Product and pay half of all wages earned in this country.

Not all family businesses are traditional small businesses either. In fact, about one-third of all businesses included in the Fortune 500 are family businesses. But not all of the family business statistics are rosy.

Family businesses tend not to

## INSIDE

The survival rate of family businesses from one generation to the next is rather dismal. To help prevent your business from becoming an unfortunate statistic, we review some common challenges to address today (before it is too late).

One fundamental key to the survival of a family business is a properly funded Buy-Sell Agreement. On page three we consider the three basic structures for Buy-Sell Agreements and the means available to finance their terms when triggered.

outlive their founders. At any given moment, 40 percent of family businesses are in the process of transferring their ownership. Unfortunately, two-thirds of all initial transfers fail. Of the one-third that survives an initial transfer, only one-half will survive a second transfer.

### Tragic Transitions

Why such a dismal success rate? The reasons are as varied and unique as the businesses and business owners themselves. Nevertheless, many of the failed transfers can be traced to three causes: people, taxes and cash.

*continued on page 2*



continued from page 1

## People Planning

The *family* element in every family business can mean the difference between its success or failure during the transfer process. The retirement, disability or death of the business owner are all common events that can trigger a business transfer.

Tough questions must be asked and answered. Otherwise, a business that took decades to build can be destroyed overnight.

For example, who will run the business after you? Will it be your spouse, one of your children or a non-family member key employee? If your spouse will not run the business, will he or she still be financially dependent on it ... or can you make arrangements to ensure they are financially independent of it?

What arrangements have you made for the inheritance of your children who are not active in the business? Have you *in-law proofed* your estate?

Thinking ahead to the second-generation transfer of your business, what provisions have you made to encourage thrift and

industry among your grandchildren?

## Estate Tax Uncertainty

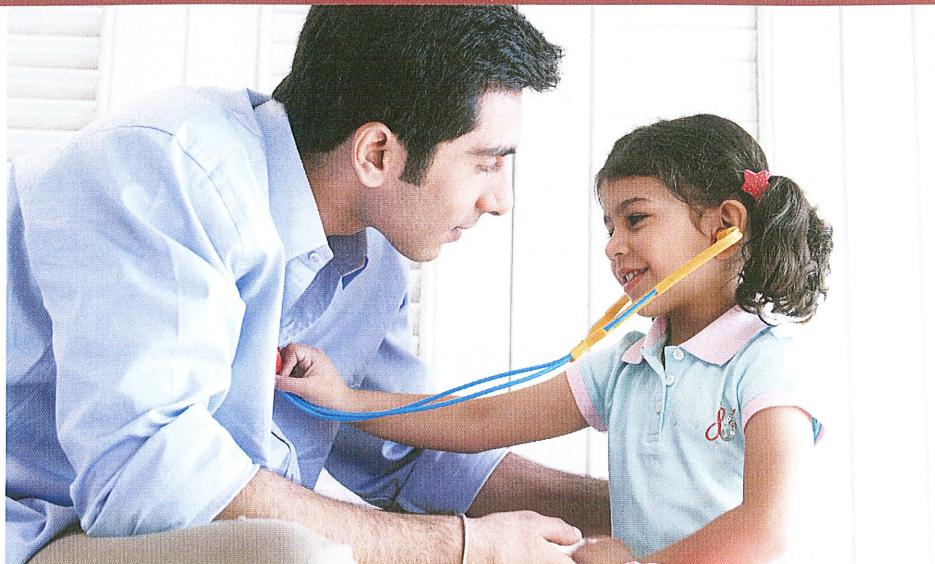
The only certainty about the federal estate is its uncertainty with each change in Congress and the White House. Additionally, many states now impose their own estate taxes, independent of any federal estate taxes.

Accordingly, careful monitoring of the economic, political and legal climate is required. Why? Without proper *estate-liquidity* planning, your family may have to sell the

business just to meet an estate tax cash call.

## Bottom Line

If your financial and estate plans are not carefully coordinated, there may not be enough cash to fund your objectives. An appropriately-funded estate plan can meet all of your people-planning objectives *and* provide liquidity for estate taxes (and business debts). Life insurance, owned in the proper amount, type and manner, may be effectively used to fund such money matters.



## Word Puzzler

Search this scrambler for words related to "Business Owners Beware."

Backbone	Challenges
Complex	Contract
Death	Dependent
Divorces	Family
Inheritance	Money
Pain	Paychecks
Process	Protect
Rosy	Spouse
Successor	Survive
Taxes	Traditional

E V I V R U S F Z F E P R C L  
C H A L L E N G E S R O V E Q  
N F A G Z Y J T U O S H Q G B  
A H P U W I L O C Y Y X B O  
T N E D N E P E D F E D P B J  
I R B Y A S S Q U T I N R U G  
R O A D L S D G F V A H O X L  
E S C D Z I H N O V K X T M M  
H S K N I P M R B H J C E Z Z  
N E B D A T C A R T N O C S Q  
I C O I F E I L F A Q M T S B  
P C N O S Z J O I E P P J M D  
E U E A P I G S N D A L W B N  
Z S S K C E H C Y A P E B R D  
G R V M Y Z C M J Q L X X O F



# BUY-SELL FINANCING

True or false: Most family business owners want their businesses to be liquidated when they retire, become disabled or die? If you answered *false*, then you are correct. In this article, we will survey the fundamental key to the survival of a family business – a Buy-Sell Agreement (BSA).

## Introduction

A BSA is a lifetime contract providing for the transfer of a business interest upon the occurrence of one or more triggering events as defined in the contract itself. For example, common triggering events include the retirement, disability or death of the business owner. An interest in any form of business entity can be transferred under a BSA, to include a corporation, a partnership or a limited liability company. Also, a BSA is effective whether the business has one owner or multiple owners. As a contract, a BSA is binding on third parties such as the estate representatives and heirs of the business owner. This feature can be invaluable when the business owner wants to ensure a smooth transition of complete control and ownership to the party that will keep the business going. Subject to certain Family Attribution Rules under Internal Revenue Code § 318, a BSA can help establish a value for the business that is binding on the IRS for federal estate tax purposes as provided under Internal Revenue Code § 2703.

## Three Flavors

A BSA is commonly structured in one of three general formats: An Entity BSA, a Cross-Purchase BSA or a Wait-And-See BSA. Under an Entity BSA, the business entity itself agrees to purchase the interest of a business owner. Conversely, under a

Cross-Purchase BSA, the business owners agree to purchase one another's interests. The Wait-And-See BSA gives the entity a first option to purchase the interest before the remaining business owner(s).

In addition to these three general formats, a One-Way BSA may be used when there is one business owner and the purchaser is a third party. The selection of the appropriate BSA format is critical for a variety of tax and non-tax reasons beyond the scope of this discussion. However, no BSA is complete without a proper funding plan. Like a beautiful automobile without fuel in the tank, a BSA without cash to fund the purchase is going nowhere.

## Funding Options

Some common options to fund the purchase obligation under a BSA include the use of personal funds, creating a sinking fund in the business itself, borrowing funds, installment payments and insurance. Of these options, only



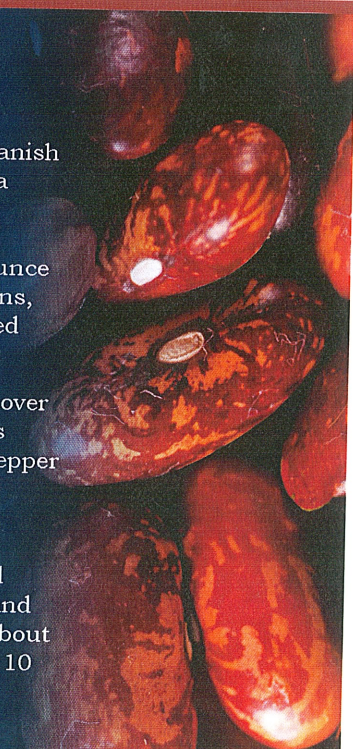
the insured option can guarantee complete financing of the purchase from the beginning. Accordingly, a proper BSA will include both disability buy-out insurance and life insurance. Since the health of the business owner determines their insurability, any delay in acquiring appropriate coverage could be fatal to the success of the BSA and, with it, the survival of the business itself.

## HOME-COOKED GOODNESS

### Red Beans and Rice

- |                                |   |
|--------------------------------|---|
| 3 bacon slices, chopped        | 1 Tbsp. hot Spanish smoked paprika                    |
| 1 C. chopped onion             | 2 tsp. salt   |
| 3/4 C. chopped red bell pepper | 4 C. water  |
| 4 garlic cloves, minced        | 1 15- to 15½-ounce can kidney beans, drained & rinsed |
| 3 C. long-grain white rice     |   |
| 3 bay leaves                   |   |
| 2 Tbsp. tomato paste           |   |
| 1 tsp. ground cumin            |   |

Sauté chopped bacon in heavy 4-quart saucepan over medium-high heat until bacon is brown and fat is rendered, about 5 minutes. Add onion, red bell pepper and garlic; sauté until onion is golden, about 5 minutes. Add rice and stir until coated, about 1 minute. Stir in bay leaves, tomato paste, cumin, paprika and salt. Add 4 cups water and beans and bring to boil. Reduce heat to medium-low; cover and cook until rice is tender and liquid is absorbed, about 18 minutes. Remove from heat; let stand covered 10 minutes. Fluff rice with fork. Remove bay leaves. Transfer beans and rice to bowl and serve.





**“W**hat we have  
done for ourselves  
alone dies with us;  
what we have done  
for others and  
the world remains  
and is immortal.”

— Albert Pike

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