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Buy-Sell Planning Questionnaire

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Following are some questions for you to consider concerning what you would like to eventually happen to your business. While not every question will apply to every business owner, this list should provide you with a general framework. Your answers will help to determine if a buy-sell agreement will help in achieving your goals for your business and your family.

The questions in Part I apply to your business interest, and what you want to happen when you die. The questions in Part II apply if you have co-owners in your business, and one of them dies. Part III concerns disability and the continuation of your business.

Part 1--You and your business interest

1. What would happen to your business if you were to die today?

2. What do you want to happen to your business when you die?

3. What will happen to your salary?
   When you die, your salary can't continue to your spouse or children unless they can perform substantial services to the business.

4. Will the company pay dividends to your family?
   Dividends are not deductible to the corporation. For this reason, surviving owners will resist paying dividends to your family. It is in the best interest of the surviving owners as well as the business to minimize liquidation costs at the death of an owner.

5. Will your co-owners look after your family? Do you want them to?
   There is a natural conflict of interest between your heirs and the business and its surviving owners. Your heirs may want income from the business, but the surviving owners may want to keep profits in the business for growth.

6. Do you have family members who are presently involved in your business?

7. Could they assume control of the business if you died today?

8. Would you want them to?

9. Would there be resistance from co-owners?

10. Do you have an estate plan?

11. Does it cover your business?

12. How?

13. Will your family receive a fair price for your share of the business?
    There is generally no market for a closely held business. It is unlikely that your heirs will be able to sell your share of the business for a fair price.

14. What will the government want?
    The IRS may attempt to assess an unrealistically high value to your stock. This could lead to a costly and time-consuming dispute.

15. Will there be enough cash to settle your estate expenses?
    A high estate tax on unmarketable stock could cause a severe need for cash in your estate. Federal estate taxes are generally due nine months after death, and in some states, state taxes may be due even sooner. Your family could find itself in the position of trying to raise cash to pay your estate taxes.

Part II--You and your co-owners

1. What if your co-owner dies?

2. Do you want to accept new partners?
   Your co-owner's heirs could become your partners, even if they have nothing to contribute to the business.

3. What if the heirs' opinions differ from yours?
   An attempt to freeze heirs out of corporate dividends would likely lead to a dispute or even legal action. If you accept a co-owners' heirs into the business, you might find yourself stuck with partners who know nothing about your business, and may have some very different ideas about how to run it.

4. Where do you want the profits to go?
   The heirs of your co-owner will want income. You will want to put profits back into the business.

Part III--You, disability and your business interest

1. What would happen to your business if you became disabled?
   There is a higher statistical chance of an owner becoming disabled than dying for any given year. Disability has been called the living death. While disability can leave you unable to perform your job, your living expenses continue.

2. What would happen to your salary?

3. Will your business be able to afford to continue your salary and hire a replacement for your duties?
   Including a disability trigger in a buy-sell agreement can provide advance planning and funding in the event of a disability.

4. Do you presently have disability insurance?

5. When was the last time it was reviewed?
   If you are presently covered by a disability policy, is the coverage keeping pace with salary increases?

A carefully drafted buy-sell agreement can help prevent the situations above. It can provide liquidity for your estate at your death, by providing a guaranteed buyer for your business interest. It can provide an income continuation and/or buy-out plan in the event of disability.

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