

## Family Business Operating Profile & Estate Planning Information Framework

Family businesses undergoing succession and estate planning start with a process of discovery and reflection. Succession and estate planning are separate but inter-related issues. Doing a good job of planning involves taking inventory of critical issues and engaging in crucial conversations about the business, personal goals, perspectives and concerns. Stakeholders often rely on professional advisors to assist in developing and analyzing information, preparing conclusions and recommending courses of action. Confusion and inefficiency often occur when business owners passively look to advisors to control what information is gathered in the discovery process.

Owners should proactively initiate the succession planning (transition process) from within and control the collection and organization of critical managerial and estate planning information. Stakeholders need to work collaboratively with their advisors in a knowledge building process that provides a “big picture look” of the issues, such as:

- Where is the business today and how did it get here? What is the current governance process and state of professionalism in our methods?
- What is our vision for the future? Do we all share a common mission, vision and values?
- Is there consensus the business should continue? If so, who has the desire, capacity and team chemistry to provide capital and management continuity? If there is not a consensus, how do we maximize the value of an exit plan?
- Are we financially sound and positioned to compete in the future?
- What are the optimal strategies for ownership, management and operational transition?
- What is the optimal estate planning strategy that complements the business transition plan and meets personal retirement and financial security goals?

Planning works best when stakeholders *initiate* these processes with advisors *assisting* rather than vice versa. This approach increases the return on investment of time and fees paid to professional advisors. Would you rather pay a hefty hourly fee to advisors for collecting raw information about your business...or pay them for analysis, interpretation, exploring options, making recommendations and orchestrating execution strategies?

The first table of contents below is a comprehensive list designed to describe the **operating profile** of the business. It describes the governance structure and scope of the business. This information is primarily for stakeholders and secondarily a resource for advisors who may be advising on business succession and estate planning matters. The information can be assembled in three-ring binders. The outline is only a suggested listing that can be supplemented or shortened depending on your individual business situation.

The second outline contains issues more specifically focused on **estate planning**. The information from these lists are not mutually independent—in fact, an optimal strategy for estate planning and business succession planning is one that recognize these issues are often inter-related.

## **Operating Profile of the Family Business**

- 1.0 Resumes & Entity Descriptions
  - 1.1 Resumes of principal stakeholders
  - 1.2 Family tree
  - 1.3 Entity diagram and narrative interpretation
  
- 2.0 History of the Business
  - 2.1 Narrative history of business
  - 2.2 Timeline summary of key events
  - 2.3 Financial trend summary
  - 2.4 Summaries of family meeting discussions to brief incoming generation members on business financial affairs
  
- 3.0 Mission, Vision and Core Values
  
- 4.0 Planning Process
  - 4.1 Goals and objectives - family principals
  - 4.2 Operational plan & budget
  - 4.3 SWOT Analysis (Strengths – Weaknesses – Opportunities – Threats)
  - 4.4 Strategic plan & issues discussion
  - 4.5 Strategic planning summary (last updated xx/xx/xx)
  
- 5.0 Organization Structure and Role Descriptions
  - 5.1 Organizational chart
  - 5.2 Job descriptions
  - 5.3 Transition Strategies – options under consideration; recent plans executed
  - 5.4 Transition plan for management & board leadership
  
- 6.0 Ownership structure and transition plan for business ownership/path to partnership
  - 6.1 History of past ownership transitions and framework for implementation
  - 6.2 Options for legal structures to facilitate ownership transition process
  - 6.3 Restrictions on ownership
    - 6.3.1 Operating agreements
    - 6.3.2 Buyout agreements
    - 6.3.3 Waiting periods before stakeholders can become investors
    - 6.3.4 Pre-nuptials
  
- 7.0 Farm Policies
  - 7.1 Current state of affairs concerning consensus of understanding and formal documentation of farm policies
    - 7.1.1 Housing
    - 7.1.2 Compensation & Employee Benefits
    - 7.1.3 Retirement Plans
    - 7.1.4 Working Hours & Leave
    - 7.1.5 Family Employment
    - 7.1.6 Other policy areas needing formal consensus and formal documentation

- 7.2 Compensation Summaries – key employees/managers (.xls files)
- 8.0 Standard Operating Procedures
  - 8.1 References to SOP manuals—locations, audiences, audit culture
- 9.0 Communication Protocols
  - 9.1 Family Business Code of Conduct
  - 9.2 Code of Conduct for directors & officers
  - 9.3 Family Meeting with potential heirs/successors - Agendas and Minutes
  - 9.4 Family Business normal meeting schedules & agenda
  - 9.5 Personality Style Profiles – summary of key stakeholders profiles
- 10.0 Management Control System
  - 10.1 Budget process design
  - 10.2 Business financial performance summaries
  - 10.3 Protocols for Cost Center/Profit Center performance tracking
  - 10.4 Peer group benchmark comparisons
  - 10.5 Performance evaluation process
  - 10.6 Training and development strategy
- 11.0 Notes – Punch List – Transition task force meeting Agendas, Minutes, etc.

## **Estate Planning Reference Binder**

- 1.0 Personal Financial Position
  - 1.1 Financial statement with cost vs market value and deferred tax assessment
  - 1.2 History of personal financial net worth growth
  - 1.3 Projection of estate growth – next 5-10 years
  - 1.4 Legal framework for how assets are titled: individually; tenants in common; joint tenancy (with rights of survivorship; community property; trust; etc.
  - 1.5 Estate tax exposure simulation
  - 1.6 Liquidity analysis
- 2.0 Insurance Portfolio Analysis
  - 2.1 Insurance coverage summary – death benefits, premiums, cash values, beneficiaries, etc.
  - 2.2 Tax treatments of proceeds
  - 2.3 Goals for insurance coverage in providing financial security, risk management, etc.
- 3.0 Retirement Plan Portfolio Analysis
  - 3.1 Components of retirement plan
    - 3.1.1 Social Security
    - 3.1.2 Pensions
    - 3.1.3 IRA, 401k's, etc.
  - 3.2 Beneficiary arrangements
  - 3.3 Expected monthly or annual payouts based on alternative life expectancy projections

- 3.4 Optional and mandatory provisions on withdrawals
- 4.0 Retirement Income Planning Worksheet
  - 4.1 3-5 year trend in sources of cashflow and disposable income
  - 4.2 Post retirement sources of cashflow, living costs and disposable income
    - 4.2.1 Income from investments
    - 4.2.2 Post retirement compensation – board fees, salary on phase-out
    - 4.2.3 Earnings from continuing involvement in operating entity – on phase out basis?
    - 4.2.4 Lease income – assets leased to successor operators
    - 4.2.5 Down payment plus annual payments – sale of business interest
    - 4.2.6 Retirement funds
    - 4.2.7 Etc.
- 5.0 Durable Power of Attorney
- 6.0 Wealth Analysis and Gifting
  - 6.1 Personal philosophy and goals concerning philanthropy - money targets, percent of estate, preferred recipients
  - 6.2 Assessment of “surplus wealth” not deemed essential for retirement financial security
  - 6.3 Gifting preferences
  - 6.4 Past records of gifts and bequests
  - 6.5 Potential alternatives under consideration for future gifting
- 7.0 Wills
  - 7.1 Most recent
  - 7.2 Executors, bequeaths, other key provisions
  - 7.3 Assessment of adequacy based on current financial situation and federal/state estate tax law and regulatory framework
- 8.0 Trusts
  - 8.1 Options for housing assets after death
    - 8.1.1 Spousal deductions
    - 8.1.2 Portability provisions – estate tax laws
    - 8.1.3 Credit shelter trusts
    - 8.1.4 ...list variety but not all inclusive
- 9.0 Planning for incapacity and final instructions
  - 9.1 Guardianships for minor children
  - 9.2 Power of Attorney for Property
  - 9.3 Power of Attorney for Healthcare/Health Care Directive/Living Wills
  - 9.4 HIPAA – authorization for release of medical information