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The Buy-Sell Agreement as a Solution to the Loss of Key Talent

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Financial problems that can occur if the “big bucks” owner of a company dies first. An equally serious problem can arise if the co-owner who is key to running the company dies.

Let’s consider an ownership scenario and what would happen if Josh, the young energetic son, leaves the company. For those who want the juicy details, go ahead and make up a reason for Josh’s departure. The effect is the same whether he dies, becomes permanently disabled, joins a cult or decides he can’t work for his father one minute longer.

Company’s Loss of Key Talent (and subsequent loss of employees and customers)

Problem for Sole Owners. Your death will likely have the same impact on your company that the death of any one of your key people would have. Your talents, experience, relationships with customers, employees and vendors may be quite difficult to replace (especially in the short term). Once you are gone, you can expect employees to jump ship—unless there are Stay Bonus plans in place. Without employees, your company is likely to default on its contractual obligations. Without planning few businesses have the financial resources or successor management to weather this storm.

Problem for Co-Owners. Multi-owner companies experience the same loss as solely-owned companies, if the remaining owners do not have the experience or talent to replace you. If you are the person who generates new clients, heads operations or maintains most of the company’s key relationships, your death or disability will jeopardize, if not ruin, your company’s survival.

Solution for Sole Owners. We recommend that sole owners create written stay bonus plans to motivate their key employees to remain with the company after the owner’s death. Additionally, sole owners should create a succession of management plan that names the person who will assume your duties. Finally, you

should decide now how you want your company to ultimately be continued. Do you want the company to be sold? Continued? Or liquidated?

Solution for Co-Owners. If your co-owners do not have the skills and experience to replace yours, you must put in place a plan to give them, or the management team, the skills and experience they lack. If your employees are confident that the surviving owners or management have the skills necessary to bring in new business, run the operations or maintain key relationships, they are unlikely to jump ship.

Successful business continuity requires cash—either in the form of life insurance proceeds or in continuing cash flow of the company. But continuity requires more than cash. Your company must fill the talent vacuum created by your departure. To do that, you must encourage (perhaps with cash through a stay bonus plan or perhaps through ownership) existing management to stay. If your business does not currently have, in place, management capable of assuming the reins, you must make it a priority to find and hire that management now.

If you would like information about buy/sell agreements or any other exit planning topic, please contact us.

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