

## Chapter 5 Checklist: Growing and Protecting Your Business

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### Questions

- Do you know what your business is truly worth in today's market environment?
- Are you the sole owner, or do you have partners?
- Do you have a buy-sell agreement? What type? ..
  - Stock redemption
  - Cross-purchase
  - Wait-and-see
- When was it last reviewed?
  - Does it adequately address all contingencies (retirement, disability, death, divorce, termination of employment, bankruptcy of a shareholder, disputes, etc.)?
  - Is it properly funded with insurance (life and disability buyout)?
  - What would happen to your business if you were unable to show up to work tomorrow? Would it be able to go on? How would your family and your employees be impacted?
- Do you have any formal documentation or a written strategic plan as to what you would like to happen to your company in the future? When was it last reviewed?
- Is your business properly capitalized?
- Have your existing advisors discussed exit planning and your preferred timing, valuation, and strategies to enable this to happen successfully? Or have they been silent?

### **Succession Planning Questions**

- Do you plan to keep the business for your family or sell it at some point?
- If keep:
  - Do you have a family member to whom you would like to pass your business?
  - How will you derive income after retirement?
  - How will you provide for your spouse if you die?
  - Have you provided for payment of estate taxes due so that the business will not be forced into liquidation?
  - How do you intend to equalize your estate distribution with children not involved in the business?
  - Are you prepared to give up control of your business to your child?

- What documents do you have in place to make sure that this strategy is executed under all circumstances?
- What steps have you taken to prepare your heirs to succeed you successfully?
- If sell:
  - To whom would you sell your business? Who will help you identify potential buyers, qualify them, negotiate, and close the sale?
  - Have you ever received an offer to sell your business? What happened? Was it firm and in writing? Why didn't you accept the offer? Was confidentiality maintained?
  - Do you know how to realize maximum value? Are you familiar with the competitive auction process of selling a business?
  - Are you represented by an investment banker or M&A advisor who is experienced in your industry, has a track record of success, and can help you sell for maximum value?
  - What is your time frame? Are you doing all you possibly can to position your business for sale at maximum value when you are ready?
  - What terms do you prefer: lump-sum cash or installments?
  - What is your plan to manage the tax liabilities arising from a sale?
  - How long do you plan to work for the business after the sale?

### ***Employee Incentive Plans***

- What have you done to attract, retain, and reward employees?
- Do you have a qualified retirement plan?
  - What type?
    - SEP-IRA
    - SIMPLE-IRA
    - Profit-sharing/money purchase
    - 401(k)
    - Defined-benefit (DB) plan
    - Cash balance plan
    - §419 plan
    - Other
- Do you have a nonqualified deferred compensation plan for yourself or key employees?
  - Who is covered?
  - Is your plan funded or unfunded?
  - How does the vesting schedule work?

- How are plan assets invested?
- Do you have a plan document?
- Do you have a plan administrator?
- What benefits does it provide?
- Have you given equity to employees (stock, options, warrants)?
- Are your existing employee incentive plans working?