Does Your Business Have a Buy/Sell Agreement in Place?

By: Thomas Bezigian, Jr.

The Basics

Buy-Sell agreements are designed to protect the interests of business owners, their families, and the business itself. These agreements are critical for privately-held businesses with multiple owners, and/or where inter-generational business succession is anticipated. They can be used whether the business is a limited liability company, corporation, or partnership.

The main objective of Buy/Sell agreements is to minimize uncertainty, and corresponding disruption to the business, in the event that an owner's interest becomes transferrable to other owners — such as the event of a shareholder's death, disability, divorce or termination of that holder's employment with the business, whether voluntary or involuntary.

A well-crafted Buy/Sell agreement is customized to address the owners' unique objectives. Among other conditions, it should contain clear business valuation provisions and specific direction as to whom the outgoing owner's interests will be offered and under what terms.

However well-intentioned, a "handshake" understanding between owners welcomes uncertainty and potential conflicts among family members and co-owners. Accordingly, having this type of legally enforceable, written agreement in place, setting forth a transition plan is highly recommended. Once in place, Buy/Sell agreements can, and should, be periodically updated as the situations of both the business and its owners change over time.

Buy/Sell agreements must be considered in conjunction with not only a business owner's business plan, but also that individual's overall financial and estate plan to ensure advantageous tax treatment, creditor protection and other benefits.

If your business does not have a buy/sell agreement in place, or has one that has not been reviewed recently, please contact the attorney at our firm with whom you work.

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