Business Continuation Planning Issues
Prepared for: **Valued Business**

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Have you considered the impact your death or disability could have on the value of your business, and on the stream of income upon which you and your family depend?

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What Is the Real Value of Your Business to You and Your Family?

If you're like most business owners, ownership of a business has provided you with the opportunity to build an asset of considerable value...an asset that also generates a stream of income upon which your lifestyle and that of your family is dependent.

BUT...

Have you ever considered the impact your death or disability could have on the value of your business, and on the stream of income upon which you and your family depend?

Planning Considerations

Consider…

If you had died or become disabled yesterday,
who would own and operate your business today?

Would your business be able to continue an income to you
if you became disabled?

Would your business be in a position to continue an income
to your family in the event of your death?

Would your estate have sufficient liquid assets
to pay estate taxes and other estate settlement costs?

Without Advance Planning, the Facts Are…
➢ A small business may be forced to liquidate at an owner's death or disability; or ➢ The business may have to be sold, often at a greatly diminished value.

The Three Business Continuation Options:

In planning to preserve the value of their business interests at an owner's death or disability, small business owners have three alternatives to evaluate:

1. Retain the Business for the Family

2. Sell the Business to Co-Owners, to an Employee or to an Outsider

3. Liquidate the Business on a Planned Basis

The objective of **business continuation planning** is to assist you in evaluating which of these alternatives is most suitable for your situation and to help provide the funds that will be needed to assure that your business continuation goals become a reality.

Objective:
Retain the Business Interest for the Family

Many business owners have a family member who is both capable and willing to continue the business at an owner's death or disability.

Without proper advance planning, however, the funds needed to retain the business for the family may not be available, and the only alternatives may be to sell or liquidate the business.

When the objective is to retain the business interest for the family at an owner's death or disability, funds may be needed:

- to pay estate taxes and other estate settlement costs.
- to continue an income to the disabled owner or surviving family.
- to equalize inheritances among heirs.
- to provide additional working capital during the transition to new business management.

Objective:
Retain the Business Interest for the Family

When your objective is to retain your business for your family, these are some of the issues you must consider:

- ☐ Which family member(s) will own and manage the business?
- ☐ Will this family member be acceptable to any other owners?
- ☐ How will the business interest be transferred...by will, gift or sale?
- ☐ Will this method of transfer create a need to equalize inheritances among heirs?
- ☐ In the event you are disabled, will the business need to continue an income to you? Will the business need to continue an income to your family in the event of your death? Will funds be available for this purpose?
- ☐ Do you know the value of your business?
- ☐ Will there be sufficient liquidity in your estate to pay estate taxes and other settlement costs without liquidating business assets?
- ☐ Will there be a period of decreased profits during the transition to new management?
- ☐ Will credit lines be disrupted or outstanding loans have to be repaid?

Objective:
Sell the Business Interest

Without a capable family member to continue the business, it can be difficult to preserve the value of a small business interest **UNLESS** a market for the business is created **PRIOR** to the owner's death or disability.

When a potential buyer for a small business interest can be identified…a co-owner, a key employee or an outsider…advance planning can provide:

- a ready market for your closely-held business interest.
- a predetermined price at which the buyer will purchase and you will sell your business interest.
- the funds to complete the sale at your death or disability.
- an established business value for estate planning purposes.
- the peace of mind that comes with knowing you have preserved the value of your business interest.

Objective:
Sell the Business Interest

When your objective is to sell your business, these are some of the issues you must consider:

- ☐ To whom will your business interest be sold...a co-owner or owners, a key employee or an outsider?
- ☐ At what events will your business interest be sold...death and/or disability?
- ☐ What is the value of your business interest? What would a willing buyer pay for your business? For how much would you sell your business?
- ☐ What will be the source of the funds needed to complete the sale?

Objective:
Liquidate the Business Interest

Unfortunately, in some situations there is no capable family member willing to continue the business and a willing buyer cannot be identified. In these situations, the only alternative may be to liquidate the business at the owner's death or disability.

Without proper advance planning, however, a financially-disastrous forced liquidation may result. A forced liquidation can greatly diminish the value of the business asset, while eliminating the source of income upon which the owner or surviving family depended.

When a business cannot be retained by the family or sold at an owner's death or disability, advance planning can enable a planned, orderly liquidation of the business by providing the funds needed:

- to pay estate taxes and other estate settlement costs.
- to continue an income to the disabled owner or surviving family.
- to allow the time for a planned liquidation that maximizes the liquidation value of the business.
- to offset the diminished value of the business that results from even a planned liquidation.

Objective:
Liquidate the Business Interest

When your objective is to plan for the orderly liquidation of your business at your death or disability, these are some of the issues you must consider:

- ☐ What is the value of your business if it could be sold as a "going concern?"
- ☐ What is the liquidation value of your business, if liquidated on a planned basis?
- ☐ Do you want to offset the diminished planned liquidation value of your business?
- ☐ What cash and income needs must be satisfied to allow for a planned liquidation of your business at your death or disability?
- ☐ How will the funds be provided to allow for an orderly liquidation of your business?

Estate Planning Considerations

Whatever your objective – to retain your business interest for your family, to sell your business or to liquidate your business on a planned basis – your plan also must take into account certain provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA 2001).

The provisions in the Act of particular interest in the business planning process include the following:

- **Estate tax rates** are reduced and **exemption equivalents** are increased for 2002 – 2009.
- **Qualified family-owned business deduction** is repealed for 2004 – 2009.
- **Estate tax deferral** with respect to a closely-held business is expanded for 2002 – 2009.
- **Generation-skipping transfer tax rates** are reduced and the **exemption** is increased between 2002 and 2009.

The Act then repeals the estate tax and the generation-skipping transfer tax for 2010.

AND…

With repeal of the estate tax in 2010 also comes the loss of the unlimited step-up in basis of your business to its fair market value at the date of your death. This means that some portion of your business, if sold after your death in 2010, may be subject to the same taxes that you would have paid if you sold your business during your life.

BUT…

The entire EGTRRA 2001 will automatically terminate, or "sunset," at the end of 2010 unless a future Congress takes action to extend its provisions. This means that, under current law, the estate and generation-skipping transfer taxes resume in 2011, generally as they existed prior to the Act!

In general, repeal of the estate and generation-skipping transfer taxes for only one year in 2010 requires planning as if there will be no repeal. However, your business continuation plan must also provide for the possibility of your death in 2010 under an entirely different set of tax rules.

Odds of Becoming Disabled

Are you willing to gamble your financial security and that of your family on these odds?

Consider the Odds of a Business Owner Becoming Disabled for 90 Days or Longer Prior to Age 65:

Age	Number of Business Owners				
	1	2	3	4	5
30	54%	79%	90%	96%	98%
35	50%	75%	88%	94%	97%
40	45%	70%	84%	91%	95%
45	40%	64%	78%	87%	92%
50	33%	55%	70%	80%	86%
55	25%	43%	57%	68%	76%

Source: 1985 CIDA Table and 1980 CSO Table

It's also important to know that a disability lasting for more than 90 days is likely to continue for:

Age When Disabled	Average Duration of Disability
30	2.5 years
35	2.8 years
40	3.1 years
45	3.2 years
50	3.1 years
55	2.6 years

Source: 1985 Society of Actuaries DTS

What Are the Odds of an Owner Dying Prior to Age 65?

Here are the statistical chances of death prior to age 65 of owners in a business. Column one shows the chances if there is just one owner; column two shows the chance of one death when there are two owners; column three shows the chance of one death when there are three owners.

Column One		Column Two			Column Three								
If the owner's age is:	Then the chance of death by age 65 is:	If ages of the two owners are:		Then the chance that one of them will die prior to age 65 is:	With three owners, here are the chances that one owner will die prior to age 65:								
					Ages		Chance			Ages		Chance	
30	28 %	30	30	48 %	30	30	30	63 %		35	45	60	51 %
35	27	30	40	47	30	30	40	62		35	50	55	54
40	26	30	50	44	30	30	50	60		35	55	55	51
45	24	30	60	36	30	30	60	54		35	60	60	43
50	22	35	40	46	30	35	40	61		40	40	45	59
55	18	35	50	43	30	35	50	59		40	40	55	55
60	17	35	60	35	30	35	60	54		40	45	45	58
		40	45	44	30	40	45	60		40	45	55	54
		40	55	39	30	40	55	56		40	50	50	55
		45	45	43	30	45	45	59		40	50	60	49
		45	55	38	30	45	55	56		40	55	60	46
		50	50	39	30	50	50	56		45	45	45	57
		50	60	31	30	50	60	50		45	45	55	53
		55	60	27	30	55	60	48		45	50	50	54
		60	60	22	35	35	35	61		45	50	60	48
					35	35	45	60		45	55	60	45
					35	35	55	57		50	50	50	53
					35	40	40	60		50	50	60	46
					35	40	50	58		50	55	60	44
Source:	Commissioners Standard Mortality Table				35	40	60	52		55	55	55	45
					35	45	50	57		55	60	60	36

A few hours spent in business continuation planning can turn uncertainty into certainty…
for you, your family and your employees.

Important Information

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