A. SUCCESSION PLAN CHECKLIST

This Succession Plan Checklist is a short document that has some key questions and explanations to walk you through what you need to consider as you figure out how you want to pass your business and to whom. To assist you in your decision, there is a list of additional resources at the end of the Checklist.
I. What kind of business entity is the business?

The first step is to identify your business’s legal entity type. You can learn more about legal entity types in the Succession Plan Information Summary.

Determining the type of business entity is crucial in understanding the rights and responsibilities of the current owners, and the tools to get the correct person into the correct job for succession planning. If your business is a sole proprietorship or an unincorporated general partnership, then we strongly suggest choosing and incorporating a new entity because, among other good reasons, an incorporated business will make succession planning easier!

II. Who are the current business owners?

This second step is identifying who currently owns the business, and what rights those people have. Often, this is an easy step, but sometimes a business is owned by several family members or partners, which means that the whole family (or each partner) should participate in business succession planning. Once those people are identified, the rights will depend on the type or entity and the agreements in place.
III. Management and Ownership:
Who should manage the business and who should own (get equity) in the business?

The next step is to identify the future management and owners of the business.

These are two separate considerations! **Management** is the right to control the business by making the day-to-day decisions. **Ownership** means the right to a portion of net profits, and typically includes some governance rights or big picture rights in the business, for example, whether to hire or fire management or to sell, merge, dissolve, or otherwise close the business.

Ownership can but usually does not automatically include management rights or the right to make day-to-day decisions for a business. Accordingly, a business owner planning for succession could provide equity to both their minor son and adult daughter, but then provide the management authority to the daughter.

Often ownership is easy, but picking management is hard. A business owner with four children and no spouse could leave the business equally to all four children, but will need to determine how to structure the management. Some questions to consider:

- Should all of the children manage equally, or should management be controlled by one child?
- What happens if no potential owner is suited for management? In this case, a business owner should strongly consider hiring a management company or, depending on the circumstances, preparing the business for a sale where a new owner purchases the business and the proceeds are split within the family or estate.

**Spouses of Family Members**

If you have a spouse and live in a community property state (like Washington), you will need to consider your spouse’s role. In such a state, the spouses together hold property acquired during marriage, which may include the business. Therefore, your spouse’s input in the succession planning is crucial. Some questions to consider:

- Does your spouse want to remain in the business?
- Or are they happy to receive income from the business while others manage the company? You will want to include your spouse in your planning to ensure that they support your plan and are otherwise cared for.

Finally, you will want to review the governing documents for the entity to ensure there are no restrictions on transfer. In certain circumstances, you may want to place restrictions on transfers in the governing documents if you want to restrict transfers to or for the benefit of family members.
IV. Does the business succession plan work with your estate planning?

While the legal corporate structure and estate planning aspects are important, you should also plan for the practical implementation of a succession plan. Often owners “just know” the business; they do not keep documentation or records of important information for the daily operation of the business. If the owner does not pass on this information, then the transition can encounter a lot of slowdowns, or may not even work at all!

Preparing and compiling a list of important information, passwords, contracts, accounts, and business relationships will help make the transition as smooth as possible.

This and other practical considerations can be found in Section B., Information Summary.

After the corporate decisions have been made and you have identified who and what you are transferring, you will need to determine when to make the transfers, during life or at death. This is where comprehensive estate planning comes into play. Transfers during life or at death have different tax and liquidity implications.

In determining when to make the transfers, you will want to identify the size of your estate, the tax impacts of making a lifetime gift versus transferring the interest at death.
VI. Putting it all together with documents

Now that you’ve thought through some of the key decision-making points, it is time to put it all together, in writing, so that once you leave your business, the right managers and owners step in.

Because you have: (i) identified the current business owners; (ii) understand the business’s corporate structure; (iii) considered your estate planning; and (iv) taken into account the practical aspects of succession planning, you can now take the steps to put the plan in action.

A good plan will balance cost effectiveness and tax efficiencies.
- A cost-effective plan will take into consideration your budget for implementation.
- A tax-effective plan will take into consideration what is the best structure for lowering tax burdens. Seeking an attorney and other professionals for help with both the corporate and estate matters will help you find a plan that is both cost-effective and tax-efficient.

Your Succession Plan

Cost effective plan
Tax effective plan

Finally, you will need documents, written agreements, and other instruments that reflect your decisions. In this toolkit, you’ll find a worksheet for you to fill out with answers about your succession planning. This worksheet is a great tool to bring with you when you meet with your attorney or other professional advisors. It is important to bring any prior corporate filings or estate planning documents you have with you to your meeting as well.
VII. Resources

The following is a list of external resources which you may consider consulting:

- WA Secretary of State: https://www.sos.wa.gov/corps/
- Communities Rise Website: communities-rise.org
- Washington State Bar Association—Consumer Information
- Estate Planning Council of Seattle: https://www.epcsseattle.org/
- American College of Trust and Estate Counsel: https://www.actec.org/
- ACTEC Fellows within 25 miles of Seattle: https://www.actec.org/directory/results/state/WA/zipcode/98101/radius/25/
- Chambers and Partners Rankings of Washington Private Wealth lawyers and law firms: https://chambers.com/guide/high-net-worth?publicationTypeId=21&practiceAreaId=2633&subsectionTypeId=1&