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UNEXPECTED DEATH OF A BUSINESS OWNER – INFORMATION FOR CLIENTS Walsh West Private Client Legal 2021

What would happen to your business if you died?

Every business in the world has at least one thing in common: it needs someone in charge to succeed.

Sometimes, this looks like a sole proprietorship – a one-man show managing all aspects of the business. Other times, a business has a team of leaders at the top, mindfully deciding the next steps which can affect thousands of people.

What happens if one of the leaders dies, though? It's a grim thing to think about, but it has to be addressed at some point. The quicker you get your succession planning in order as a business owner, the better, and if you're an employee, you better hope your company has one.

Here's a closer look at what happens to a company after an unexpected death.

Preparing for the Life of Your Business After an Unexpected Death

Say you own a business or a percentage of a business. You may have a successful company that you fund and operate on your own or a team of people you've partnered with.

Either way, it's up to you to make sure all your bases are covered, including death planning. It may not be the most glamorous of decisions you have to make, but some would argue it's one of the most important.

How to Make Proper Arrangements

The formal term for death planning as a business owner is succession planning. This goes beyond getting life insurance and creating a personal will; success planning leaves your team with a course of action after you're gone.

You have two choices to pick from at the start of your plan. You can either decide to sell the business and give employees/partners/family members a share, or you can name a successor. The former takes the business out of your hands without making it a burden on someone else.



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The latter gives someone a chance to take up your legacy and continue moving the company forward with your vision. Successors are often lower level team members or family members who are ready to take up the responsibility.

Whatever you decide to do, though, you need to make it official. Don't just tell your son that he's next in line as CEO or ask your current CEO to sell the business.

You need to set your plans in stone by writing them down and signing on the dotted lines. Then, get with an attorney to be absolutely sure you've made the proper arrangements, and consult your board of advisors or business partner if you have such resources.

What Happens If No Plans Are Made

Maybe you trust that your partner will do the business justice, or you don't see the reason for a succession plan for a sole proprietorship. Think of it like this: when you die, someone will have to pick up the pieces, but everyone you know will be too focused on mourning to think straight.

Your partner is going to want to honor your last wishes, but they can't do that if they don't know what your wishes are. The same goes for a successor. Not to mention, you're basically throwing your business away if you don't plan to keep it alive after you pass.

At that point, anything can happen. Your family may decide to sell it all, or your partner may take your share without leaving a trust fund or financial security for your family. Your bank could even step in and claim assets or push for bankruptcy.

Put simply, it all goes up in the air without your say. It's worth preserving the success you've created in life when you experience death, but you need to make the proper arrangements to make sure that happens.

How to Deal with the Death of a Business Owner

Maybe you're not the owner of a business, but you are the COO or CEO. Maybe you only have a small share as one person of a group of partners. Whatever your position is, if you're a leader within the company, you have to step up if an owner dies unexpectedly.

Partners and Investors

Partners of those who have had an unexpected death (without succession planning) have a few choices. You can choose to either buy and take over, sell to heirs, or appoint heirs.

Buying and taking over means you purchase your partner's share of the business and take over their responsibilities. You may decide to handle their previous role on your own or to appoint someone else to the position.



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Selling to heirs means you have to set a price with your deceased partner's family. They would then have to pay you the money to maintain influence in the business. It's a sticky situation for all parties involved, often causing more heartbreak than resolving the already difficult situation.

Appointing an heir means you invite the son or daughter of your partner to fill their role. There is no selling of shares or distributing of funds which usually keeps everyone happy. However, the heir has to be willing and able to take up their new job.

There is one more thing to consider. If your partner dies unexpectedly and you or the family think it was a wrongful death, you can seek compensation. You can read more here about such matters.

Employers

Take a second to consider the situation mentioned earlier about being a business owner and failing to make arrangements for an unexpected death.

If the owner of your business dies and doesn't leave behind any plans, then the family decides to sell the business. Whoever takes over can do whatever they want – including letting you go. So you can transition from having a great job to cleaning your desk before you even have a chance to wrap your mind around death.

As if losing a valuable leader in your life isn't enough, experiencing this and losing your job is heartbreaking. If you have any sort of management influence or top-level position, it's worth bringing up the matter of succession planning to your company's ownership.

Overcoming the Many Obstacles of Running a Business

Being a business owner means knowing how to wear many hats. One day you're budgeting and allocating funds and the next you're signing off on marketing campaigns and product packaging designs.

It's a lot to keep up with. Still, one of the most challenging positions running a business puts you in is having to move forward after an owner's death. So make sure your company is in good hands if something ever happens to you, or take the time to sit down with your partners and lawyers and discuss this.



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