

DREGGORS, RIGSBY & TEAL, P.A.

CERTIFIED PUBLIC ACCOUNTANTS

How can I keep my business in the family?

Answer:

There are several ways to keep your business in the family. The method you choose will depend on whether you wish to keep ownership and control of the business until your death, or begin transferring ownership (and possibly control) to your family during your lifetime. In addition, your options will be affected by the business entity itself. A sole proprietorship, for example, may have different options than a partnership or a corporation. The presence of a buy-sell agreement or another restrictive agreement between current owners may also impact your options. Each of the options for keeping your business in the family bears its own tax consequences and can be affected by your overall estate planning goals.

If you wish to maintain ownership until your death, you can transfer your business to family members using your will. Depending on the value of your estate and the year in which you die, your business interest may be included in your estate and subject to estate taxes under this method. However, under certain circumstances, valuation discounts may be available to lower the taxable value of your business interest. See a tax attorney for more information.

If you want to begin transferring ownership of the business during your lifetime, you can structure the transfers to occur in such a manner that you retain the controlling interest until you are ready to fully remove yourself from the business. You can make lifetime gifts of interests in your business to your family members. Depending on the amount of the gift and to whom the gift is made, lifetime transfers of your business interest may be subject to federal and/or state gift tax. (See a tax attorney for more information.) Or, you can combine lifetime gifting with an outright sale of your interest. The sale can occur either during your lifetime or after your death. You may want to use a trust to facilitate the transfer of your business, or transfer ownership through the use of another entity, such as a family limited partnership.

A buy-sell agreement can be established now to provide for the future sale of your business to one or more family members. Buy-sell agreements are legal agreements that establish a buyer for your business, the price or pricing mechanism to be used, and the events (such as retirement, death, or disability) that will trigger the sale. Be aware that once you are bound under such an agreement, you may not be allowed to make gifts of your business interest or sell to anyone other than the buyer named in the agreement, depending on the terms of the agreement.