

DREGGORS, RIGSBY & TEAL, P.A.

CERTIFIED PUBLIC ACCOUNTANTS

Can I transfer my business through my will?

Answer:

Yes, you can use your will to transfer your business interest after your death. You can also use your will to specify a long-term succession plan for your business if, for instance, you want one of your children (who may be currently active in the business) to take over and run it when you're gone. Without such a clause in your will, your interest could possibly be distributed equally to all of your children, even though you did not intend that result.

A disadvantage of transferring your business through your will is that the full value of your interest will be included in your taxable estate. Unless you have made provisions for additional liquidity (e.g., by using life insurance), your heirs may be forced to sell the company just to pay the estate taxes.

Assets disposed of through a will are subject to probate, the court-supervised process of administering a will. Probate can be expensive and time consuming. It could also result in business interruptions, which in turn could result in a loss of customers and employees if confusion develops over who's running the business and how it will continue to operate. The probate process is also public, which may allow others to discover details about your estate that you would rather not disclose.

Talk to your lawyer and your financial professional about your business interest and what you would like to happen to it at your death. Transferring your interest through your will is just one method that can be used. Other options (or combinations of options) can also be used to accomplish your wishes. Some methods may allow you to equalize distributions to your heirs without splitting up the business. Some can help you minimize the taxable value of your business interest. A buy-sell agreement can be drafted now to establish a plan for the future succession of your business interest. Trusts may also be used to help accomplish your goals. All of these strategies take time to plan and implement, so the best time to begin planning is now.