

Cantwell & Goldman, P.A.

321-639-1320 | www.hmtlaw.com | May 2015

Central Florida Law Reporter

Business Succession Planning - Start with the End in Mind

Small and mid-sized businesses are innovators, job creators, and the cornerstone of economic growth for local, state, and national economies. While business owners are often passionate about their respective product or service, they sometimes neglect corporate formalities and “house-keeping” aspects of running a business. One of the commonly neglected and most important aspects of small and mid-sized businesses is succession planning. A complete succession plan ensures that a business owner’s hard work and legacy is passed on, and that chaos and wealth destruction does not ensue after a major life event.



A successful succession plan requires a comprehensive legal strategy that involves numerous aspects of law, including corporate, tax, family, and estate planning. It should also take into consideration various corporate and personal contingencies. Planning for the succession of a business should commence well in advance of a contemplated merger, sale, or retirement, ideally as part of the original business plan. The succession plan should consider major life events such as the death or disability of an owner, divorce of an owner, or sale (or other disposition) of an ownership interest, along with the goals of the owner.

In the event of death or retirement of an owner, one of the most contentious issues often involves picking the successor of the company. Often times, the eldest child or the child with most apparent skill-set to run

the business is chosen as the successor for the executive role, with ownership divided among siblings and a surviving spouse. Picking the successor for the executive role not only involves choosing someone with the requisite business acumen, it also requires a person whose long-term vision is aligned with all heirs and others who will retain an ownership interest in the company.

One of the best ways to avoid familial discord and infighting is to speak candidly with heirs about the subject. If no unanimous or acceptable decision results, an owner may face the tough decision of whether to sell the entire business and divide the assets among heirs, or offer a dissenting heir a buyout of their share. Occasionally, someone who is heir-apparent to the management role would prefer not to assume an executive role. In that case, the business may best be run by a professional manager, familiar with the industry, while the heirs retain ownership of the company and its profits.

Subsequent editions of this newsletter will discuss topics involved in the implementation of a successful succession plan, such as the passage of ownership, other succession options, funding retirement with the sale of a small business, and optimal legal and financial structuring. The old adage “start with the end in mind” holds true in the business world. Expert advice for succession planning maximizes wealth and minimizes unnecessary expenses and familial tension.

The attorneys at Cantwell & Goldman, P.A. have years of experience in corporate law, corporate finance, estate planning, and real estate law, among many other practice areas. More information is available on our website, at www.hmtlaw.com. If you have questions concerning any information contained herein, please schedule a consultation with one of our knowledgeable attorneys.

Legal News: IRS Making Headway Against Fraud

A Treasury Inspector General for Tax Administration (TIGTA) report found that IRS paid 607,481 fraudulent annual income tax refunds valued at \$2.3 billion in 2012, down from 1,128,531 returns valued at \$5.2 billion in 2010. The report noted that efforts to reduce fraudulent returns were successful and resulted in increased fraud detection and prevention of identity theft tax returns. While there were notable improvements, the inspector general found that the IRS failed to identify multiple refunds going to the same bank account and addresses, some of which were overseas.



The IRS agreed with certain recommendations of the report and plans to update the fraud filters based on the inspector general's findings. The report stated that their "... analysis identified that in the 2013 Filing Season, the IRS's efforts prevented between \$22 billion and \$24 billion in identity theft tax refunds from being issued."

For the full report and more information on the IRS's efforts to combat fraudulent tax returns please visit: <http://www.treasury.gov/tigta/auditreports/2015reports/201540026fr.pdf>

Consumer Watch: Fraudulent Tax Return Warning

As discussed in the above story, individuals are often targeted by scam artists in order to obtain tax payer identification numbers (Social Security Numbers and Individual Taxpayer Identification Numbers), so they can file fraudulent tax returns. Most of the taxpayers that are targeted by this scam are unaware they were victimized. The investigator general report noted that victimized individuals are generally people who are not required to file a tax return.

"However, for those individuals who are required to file a tax return, the identity theft goes unknown until the legitimate filer attempts to file a tax return resulting in a duplicate filing. This causes the Internal Revenue Service (IRS) to hold the legitimate return and places the burden on the taxpayer to prove his or her identity."

Even if you were not required to file a tax return, an inquiry to the IRS regarding your tax return status can help prevent scam artists from using your tax identification number.

For additional reports and information from the Treasury Inspector General for Tax Administration please visit: <http://www.treasury.gov/tigta/>.

For more information about the topics contained in this newsletter, and other important legal matters, please visit our website: WWW.HMTLAW.COM. We also invite you to listen to our firm's podcasts at www.321radio.com.

Disclaimer: To be removed from this mailing list, please e-mail Reasst3@cfglawoffice.com with your name and address. The information contained herein is for general educational purposes only. Each client's needs and situations are unique, please consult an attorney before acting on any information in this publication. Please visit our website or like us on Facebook for more information about Cantwell & Goldman, P.A.