

Cantwell & Goldman, P.A.

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Business Succession Planning - Plan Implementation

This final installment about business succession planning focuses on the optimal legal and financial structuring of a succession plan. From a business owner's perspective, the hard part of choosing a successor and the development of a training plan for their successor is over. The final stage of a well prepared and executed succession plan involves less work by the business owner, as the burden shifts to lawyers, bankers, and accountants who should work together to make the transition as seamless as possible.

With respect to the legal structuring of a succession plan, it is important to choose a knowledgeable lawyer, who can determine what form of transaction best suits an owner's needs. While the end result of the owner handing over the reins may appear the same, the underlying structure can change tax consequences and increase the complexity of the transaction for both the previous and new owner.

Different transaction structures, such as an asset purchase rather than a stock purchase, can impact the financial end result for the previous and new owner. Simultaneously, a well structured transaction will minimize the tax liability associated with the disposition of the business for the owner (often funding retirement).

However, the previous owner's goals must be balanced with the new owner's, as a new owner will seek to maximize deductions and other attributes that will result in favorable tax treatment in the future. The structure of the transaction is also driven by other factors, including the type of industry the business operates in, securities, antitrust, and franchise law.

The restructuring process is an optimal time for a successor to examine the firm's financial structure. After examining their company's cost of capital and reviewing their balance sheet they may find that they want to adjust their debt to equity ratio. A successor may find that a different ratio of financing maximizes the firm's return on capital. When a business is considering the issuance or assumption of additional debt, it is important to compare the offerings of various financial institutions and then confer with your accountant and lawyer.

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. Additionally, be sure to read our new blog at <http://www.hmtlaw.com/blog/>, which will address various relevant legal issues. If you have questions concerning any information contained herein, please schedule a consultation with one of our knowledgeable attorneys.



Legal News: The Legality of Fantasy Sports Betting

After the crackdown on internet gambling shut down many online poker websites, fantasy sports betting websites have thrived. Their success is a result of a special exception in The Unlawful Internet Gaming Enforcement Act of 2006, which provided an exception that fantasy sports betting is legal if it meets three exceptions:

1. All prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest and their value is not determined by the number of participants or the amount of any fees paid by those participants.
2. All winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals (athletes in the case of sports events) in multiple real-world sporting or other events.
3. No winning outcome is based—
 - (aa) on the score, point-spread, or any performance or performances of any single real-world team or any combination of such teams; or
 - (bb) solely on any single performance of an individual athlete in any single real-world sporting or other event.

However, this exception was recently questioned by a New York Times article that pointed to the addictive nature of fantasy sports betting, industry protocol involving fantasy sports company employees' use of confidential data, and how this data is protected.

Consumer Watch: Protecting the Elderly from Financial Follies

A recent article in Money Magazine highlighted the vulnerability of the elderly to making poor financial decisions. The article stated, that on average “money smarts” peak at age 53, according to the Center for Retirement Research. As we age past that point our susceptibility to scams, unscrupulous financial advisors, or just poor financial judgment increases.

The article went on to highlight several ways to bolster you or your loved one's resilience to bad financial decisions including:

- Consolidate investment accounts.
- Replace stocks with mutual funds, which need less attention.
- Trim down the number of credit cards.
- Pick someone trustworthy to review financial decisions.
- Use technology, such as an app like “Mint” that will allow someone to view daily account activity.
- Give medical care providers permission to contact someone if they become concerned about your mental health.
- Create a “money blueprint” so you can stay on track, and resist investment sales pitches.

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