Business Advantage, January, 2006

FAMILY BUSINESS FORUM

A New Approach to Estate Planning

By Donald Levitt

Here's the traditional approach to estate planning: the parents know what's best for their children; they keep the estate planning process secret; they focus on wealth transfer and tax minimization; and the children find out "who got what" after the plans are completed – or after the parents' death.

When the estate includes a valuable asset which is not easily divided between siblings, e.g., a family business, there is often an additional last step in the traditional estate planning process after the parents' death: the siblings fight over money and power. This is probably not what the parents had in mind…

Collaborative Estate Planning
A number of estate planning and family business advisors are looking at estate planning in a new way – a way in which estate planning can actually strengthen the family and reduce the risks for conflict. In "collaborative estate planning," the parents talk with their adult children about what they are thinking of doing with their estate (e.g., ownership of the family business and other assets; timing of the transfer; addressing their own financial needs; philanthropic goals) and what they hope to achieve with these plans. They also talk about their values which are the foundation for these decisions (e.g., all children will be treated equitably; adult children who work in the business and help to build it get ownership in the business).

By discussing these issues with their adult children *before* formally developing estate plans with their advisors, the parents have an opportunity to get input and feedback from those who will be most affected by the estate plans. Rather than simply deciding, for example, which adult children should be financial and legal partners, the parents can *ask* their adult children if they want to be partners – and if they have a plan for working together effectively as partners in sharing authority and resolving conflicts. If their adult children have concerns about being partners, this is the time to discover these concerns – and find options for a graceful exit. In a different scenario, if an adult child finds that they are not going to receive ownership in the business or other inheritance which they anticipate, they have an opportunity to pursue other directions while still early in their career. Throughout these discussions it is made clear that the final decisions always rest with the parents.

After the parents have had these discussions with their adult children, they can then share what they have learned with their estate and business advisors. At that point exit and estate planning decisions such as financing the purchase of the business, professional development for adult children in the business, and cash-flow planning can be made in an informed manner.

A Noisy Process

Collaborative estate planning is not a quiet process. It can be "noisy" and there can be conflict. The parents may come into this process with concerns about their own health and financial well-being. There may be differences of opinion between the parents on certain issues, and the parents may already have challenges in their relationship with each of their children. The adult children may also come into this process with concerns about their own careers; their own estate planning; the financial future of the grandchildren; and wanting to maintain a good relationship with their parents and siblings.

Given these sensitivities, an external facilitator is often used to conduct meetings and conference calls to assure that everyone stays informed and involved. Collaborative estate planning is an investment of time and energy – but it may ultimately save a business and a family.

The Tip

Involving adult children in the estate planning process requires careful thought and attention. It may indeed be a "noisy" process – but it can be a process which assures the parents that their wishes will be understood and honored, and that the entire family will benefit from the estate.

Donald Levitt, president of Levitt Consulting, helps family businesses to succeed as both a business and a family. More information about this month's topic, and other family business issues, can be found at LevittConsulting.com.