

How Smart Business Owners Protect Their Families and Companies

BY CORY GRANT, J.D.
—GRANT, HINKLE, & JACOBS, INC.

SCOTT HINKLE, J.D., CFP
—GRANT, HINKLE, & JACOBS, INC.

DAVID JACOBS, J.D.
—GRANT, HINKLE, & JACOBS, INC.



As a business owner, if your goal is to keep your company in your family when you retire or pass away, then it is critical to protect the entity, and to decide when and to whom to transfer it. The particular tools and techniques you use will depend on the goals and objectives of the four groups affected by your plan:

- The senior generation business owner;
- The junior generation family members involved in the business;
- Key non-family employees; and,
- Family members not involved in the business.

Even if your company is eventually sold to a third party, proper succession planning now will help maximize its value to you and your heirs down the road.

Here are some of the best things you can do to properly plan:

No. 1: Protect Your Business at Your or a Key Person's Death

If you or one of your key employees passes away

unexpectedly, the value of your company will decline. Indeed, if you own a small company, you may also be its key employee.

In this case, a key-person life insurance policy should be used to protect your company in case you die. With key-person coverage, the business typically owns the policy, pays the premiums, and is the beneficiary. The insurance can provide much needed stability: if death occurs, the business receives the policy proceeds and can use the funds to:

- Hire a capable replacement;
- Pay off debts; and/or,
- Buy time until the business' assets can be liquidated and the business can be closed.

In addition, many family businesses depend on non-family employees for the company's continued success. You may want to take out key-person life insurance on them to guard against financial loss due

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to their absence, and to ensure that the business stays in your family.

No. 2: Protect your Family and Ensure the Survival of Your Business

A buy-sell agreement is a legally binding contract which states that, at an owner's death, disability, retirement, or otherwise separation from the company, the owner's interest in the company must be sold back to the business or to the remaining owners at agreed upon terms. Simply stated, it requires the beneficiaries of a deceased owner to exchange company stock for cash and allows the remaining business owners to continue operations.

A buy-sell agreement can not only protect your family, but can also make sure your business survives. This is crucial if you own a small or closely-held company where your passing creates a significant financial burden on your family, your business, and the remaining owners. A buy-sell agreement guarantees a market and a fair price for your business interests, ensures control over the business by the remaining owners, and can set the value of the business interest for estate tax purposes.

As long as health is good, life insurance is the best way to fund the agreement because it provides the immediate cash necessary for the business or the surviving owners to purchase the deceased's interest.

In many instances, the cash surrender value in a permanent life insurance policy can also be used, tax-free via policy loans and withdrawals, to help pay for a lifetime purchase of a business owner's interest.

Depending on the type of buy-sell agreement, the business itself or the individual owners acquire a policy on each owner so that at death or disability, the funds needed to "buy out" the deceased owner's interest are readily available.

No. 3: Accumulate Assets for Retirement that are not Tied to Your Business

Life insurance is not only an essential protection tool, but it commonly used by successful business owners as a diversified vehicle to accumulate cash and build future retirement income.

RISK MANAGEMENT SEMINAR SERIES

Managing Risk in a Design Firm

Wednesday, May 2, 2012

Registration: 7:30 am

Program: 8:00 am - 10:00 am

Leaves & Investigations: What Should I Do?

Friday, May 11, 2012

Registration: 7:30 am

Program: 8:00 am - 10:00 am

Sexual Harassment Prevention Training

Friday, June 1, 2012

Registration: 7:30 am

Program: 8:00 am - 10:00 am

The Dangers of Distracted Driving

Friday, June 8, 2012

Registration: 7:30 am

Program: 8:00 am - 10:00 am

All training sessions available to our clients

*** Reserve early / seating is limited!**

Register for upcoming seminars

Contact Darcee Nichols at dnichols@cavignac.com or call 619-744-0596

*** NOTE:** Due to the popularity of our seminars and limited space available, we regret we cannot provide refunds or credits with less than 72 hours advance notice of cancellation.

Life insurance policies offer a unique combination of death benefits and tax advantages available in no other financial product. These advantages include tax-deferred growth as well as the potential to access policy cash values without paying taxes via withdrawals and policy loans.

In many cases, business owners and key employees earn levels of income that allow them to easily exceed the contribution limits under a 401(k) plan or other qualified retirement plan.

Smart business owners use nonqualified executive benefit plans and other arrangements that use life insurance to provide tax-managed benefits for themselves, their partners, and their key employees.

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Properly structured life insurance in a nonqualified plan can provide members of the senior generation with death, disability, and retirement benefits, especially when they have transitioned the business to the junior members and are no longer receiving compensation.

It can also be used to ensure that your key employees remain with the business -- so-called "golden handcuffs."

No. 4: Protect Your Assets from Liabilities and Creditors

If you own a service firm, such as a law or accounting firm, a physicians' group, or an engineering or architectural firm, you are often exposed to professional liability claims.

If your company assumes the risk of potential environmental contamination (i.e., waste hauling, landfills, chemicals, etc.) you are subject to liability under federal and state pollution laws.

Moreover, such liability is not limited to the business itself, as you also may be personally liable under such laws. As the business passes to the next generation, so does the potential liability.

To protect you and your family from these potential liabilities and creditors, you can establish an irrevocable trust to run for the maximum period permitted by state law (i.e., at least 90 years in most states and in perpetuity in a handful of states). The trust would provide your heirs with income and principal as needed for health, education, maintenance, and support.

If properly structured, the assets in the trust cannot be reached by the beneficiaries' creditors, including state and federal environmental agencies. Life insurance is the most common way to fund an irrevocable trust because of its unique leverage and tax advantages.

No. 5: Prevent a Family Feud

As a business owner, you can use life insurance to provide your children who are not involved with the business with "equitable" treatment. Leaving the ownership and control of business to your active children, and life insurance proceeds to your inactive children equalizes the inheritances among them and creates a family "bank."

In addition, it avoids the need for your active children to purchase the interests of the inactive children, perhaps at a time when the business may be unable to afford it.

Depending on the particular facts and circumstances, the insurance may be owned by an irrevocable trust for the benefit of the inactive children, and the insured may be you, as the business owner, or you and your spouse.

No. 6: Say "Goodbye" to Uncle Sam

Some business owners will wait until death to transfer all or most of their business interests to one or more of their children. If you have a taxable estate, life insurance can provide your heirs with the cash necessary to pay estate taxes due; without it, the business may have to close or be liquidated.

Using life insurance to pay estate taxes is particularly useful for business owners because their ownership interests cannot be readily liquidated. The policy is usually owned by an irrevocable trust so that the beneficiaries will receive the death proceeds both income and estate tax-free.

For example, suppose an irrevocable trust is established for the purpose of owning a life insurance policy on your life. The trustee of your trust could be your intended beneficiary. At your death, the policy proceeds are payable to the trust which can then, at the direction of the trustee, be used to pay any applicable estate taxes.

As a business owner, you owe it to yourself and your family to explore the use of these techniques to solve many of the problems associated with maintaining, growing, and passing on a successful company. ✨

Grant, Hinkle & Jacobs provides comprehensive asset protection, wealth transfer planning, and business succession planning for hundreds of clients across all industries. <http://www.ghjinc.com/>

Disclaimer: This article is written from an insurance perspective and is meant to be used for informational purposes only. It is not the intent of this article to provide legal advice, or advice for any specific fact, situation or circumstance. Contact legal counsel for specific advice.



Articles courtesy of Cavignac & Associates Employee Benefits Department

LIVE WELL, WORK WELL

Save Lives: Don't Text and Drive

Cellphone use while driving contributes to roughly 100,000 accidents and thousands of fatalities each year. Though many states have banned cellphone use while driving, distracted driving continues to be a widespread issue. April is National Distracted Driving Month, the perfect time to recognize the dangers of distracted driving, and to make a pledge to stop!

- On average, texting causes drivers to look away from the road for 4.6 seconds. When traveling at 55 mph, a car travels the length of a football field without the driver looking at the road.
- A driver using a cellphone has the same reaction speed as a driver with a blood alcohol concentration of .08 percent—the legal limit for drunk driving.
- Drivers using cellphones miss half of the information in their driving environment, such as



relevant objects, visual cues, exits, red lights and stop signs.

- A texting driver is between eight and 23 times more likely to be in an accident.
- Cellphone use is reported in 18 percent of distraction-related fatalities.
- Distracted driving is a difficult, but important, habit to break. Follow these guidelines if you are tempted to use your cellphone while driving:

- Turn your phone on silent so you are not tempted to respond to any text or call.
- Keep your phone in your trunk or glove box while driving.
- If you have a smartphone, download an application like [ZoomSafer](#) that blocks incoming calls and texts if you are traveling faster than 10 mph.
- If you need to make a phone call or send a text, pull over to a safe location and put your car in park.

For more information about distracted driving, visit www.distraction.gov or attend our June 8th seminar on the Dangers of Distracted Driving.✂

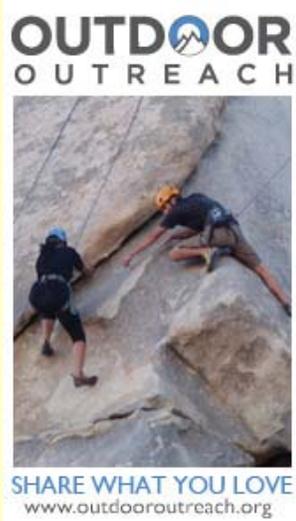
Shop Local—Community-Supported Agriculture

Community-supported agriculture (CSA) is a growing trend that allows consumers to buy local, seasonal food directly from a farmer. CSA generally consists of a local farmer offering a certain number of “shares” of his crop to the public. Consumers purchase a share and receive a box full of fresh produce each week throughout the farming season. Here are some of the benefits of CSA membership:

- Members get to eat the freshest produce available, full of flavor and vitamins.
- Because they receive whatever the farm produces, members are exposed to new fruits and vegetables
- Typically, farmers will provide an annual tour of their farm for CSA members.
- Children will often prefer food from “their” farm, eating vegetables they’ve never been known to enjoy.
- All profits go to the farmer, stimulating the local economy.

For more information, visit www.localharvest.org/csa/.✂





Women Give San Diego

