



# VIEW*S* & VISIONS

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## The Business Owner's Estate Planning Toolkit

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With all of the success that a business owner realizes, it is wise to engage in estate and succession planning. For many, protection of assets and an orderly and profitable successful exit can be the crowning achievement of many years of hard work. With that in mind, here are some of the key estate planning tools for a business owner to consider:

- 1) **Self-Canceling Installment Note (SCIN) or Private Annuity** – Many business owners rely on the value in their business to provide retirement income. So you may need to sell your business to your children or other family members instead of giving it to them, but you may not want them to be required to continue to pay after you pass away. A SCIN or a private annuity can accomplish these objectives.
- 2) **Irrevocable Life Insurance Trust (ILIT)** – The value in your business is a large part of the value of your estate, but you may not be able to turn that value into cash quickly if there is an estate tax liability or a need to

support your spouse or children. Life insurance proceeds payable to an ILIT can provide ready cash to assist with those needs.

- 3) **Buy-Sell Agreement** – You want to control who you are in business with. Before you transfer an interest in your business to a spouse or a child, be sure they have signed a buy-sell agreement to prevent them from transferring that business interest to someone else, and to address what happens if the child or spouse files a bankruptcy petition or becomes disabled or divorced or passes away.

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- 4) **Business Succession Plan** – Who will own and operate your business when you are ready to retire? Will you sell your business or will you give it to your spouse or children? If you will sell your business to family members, what will be the source of the payments? A Business Succession Plan will answer these questions.

- 5) **Revocable Living Trust** – Unlike a last will, a Revocable Living Trust will keep private the identity of the beneficiaries of your estate and under what conditions those beneficiaries receive your estate. A Revocable Living Trust, along with a last will, can utilize the estate tax exemption equivalent of each spouse and pass (in 2016) \$10.9 million to your children's estates tax-free.



6) **Qualified Terminable Interest Property (QTIP) Trust** – A QTIP Trust can provide an income stream to your surviving spouse, while controlling the ultimate disposition of the business.

7) **Your favorite charity** – You can accomplish your charitable goals while furthering your overall estate and financial plan. A charitable remainder trust can provide an income tax deduction and reduce a capital gains tax burden while providing an income stream for life and reducing estate taxes. A donor-advised fund can provide an opportunity for you and future generations of your family to be involved in charitable giving in your community forever. A gift agreement can specify the use of your donation, such as endowing a field of study at your local university or a scholarship fund for medical students to improve health of the community.

8) **Prenuptial Agreement** – Your largest potential creditor is your fiancé, also known as your future former spouse. A well-drafted prenuptial agreement can protect the value that you create in your business.

9) **Entity Shields for Asset Protection** – Using corporations, limited liability companies or limited partnerships to operate your business can protect the assets that you have accumulated with your hard work. Keep assets that are subject to different risks in separate entities.

10) **Durable Power of Attorney** – Statistics show that most of us will have a period of incapacity during our lives. A Durable Power of Attorney allows you to appoint someone to make business and financial decisions on your behalf if you experience a temporary or permanent incapacity.



11) **BONUS – Conservation Easement** – If your business is agriculture, then a conservation easement granted to your local Farmland Protection Board or other conservation organization can supplement your current income stream and adjust the value of the land to a level that fits your overall estate plan. <sup>11</sup>