

Sole Owner Continuity Plan

Making Sure the Business Continues When You Don't

Greg King barely survived helping his oldest son learn to drive and now it was time to teach his younger son. Before putting himself through on-the-road training one last time, Greg called his life insurance representative. "I have no co-owners to buy my company if I don't come home. What can I do?"

Like many businesses, Greg's company (King Aviation Services) was not co-owned. And, like other such businesses, there was no plan to continue the business if something happened to the owner. This may be true in part because owners (like Greg) may not think about it and in part because some advisors may not raise issues that they may not be educated in. (After all, how do you continue a business when the only owner goes to the Big Hangar in the Sky?)

Fortunately, Greg's insurance representative was familiar with a solution called a Sole-Owner Continuity Plan (SOCP).

The challenge for Greg, and many sole-owners, is to provide for the business's continuity. That can be accomplished by securing the continued services of those employees who are indispensable to the business. If Greg does not return, the remaining employees may believe the survivability of the business (and their salaries) could be at great risk. Often, they, too, may leave. Without you and without the company's most valuable employees the business may not continue long enough to be sold, transferred, or even liquidated, on a financially sound basis.

For sole owners, the vital question is: how do you prevent these employees from leaving? One answer: bribe them. Your business should create a plan to compensate them at a substantially increased level (usually 50% to 100% more than they ordinarily receive) and *guarantee that payment with cash*. This plan is known as a Stay Bonus Plan and it is the first element of a sole owner continuity plan.

Stay Bonus

A stay bonus is a written, funded plan that provides monthly or quarterly bonuses, usually over a twelve to eighteen month period, for key employees who remain with the company during its transition from your ownership to new ownership or is liquidated in an orderly way. (New ownership may be a third party, employees, or family members.)

Typically, the stay bonus is funded with life insurance in an amount sufficient to pay the bonuses as well as to continue the normal salaries of your important employees over the specified time period. This insurance may be owned by the company or outside the company in an estate tax-sensitive trust. The plan is communicated to the important employees when it is created so that they know the plan and the money to fund it exist.

Business Continuity Instructions

The second element of the sole-owner continuity plan addresses the need for you, the owner, to communicate — in writing — to advisors and to family members what you want done with the business upon your death or permanent incapacity. Your instructions should cover three important issues.

- First, what key employee(s) can be given the responsibility to continue and to supervise business operations? Make financial decisions? Oversee internal administration? Owners should name names.
- Second, what advisors and others (such as a friendly competitor) should be consulted in the ownership transfer process? Again, owners should be specific.
- Third, do you want the business to be sold? If so, make a list of names and contacts of businesses that have expressed an interest in acquiring the company or who you think would be appropriate successor owners. On the other hand, you may want the business sold to key employees, continued in the family or liquidated. Whatever your choice, it must be made during your lifetime. Is there a better time than the present to do so?

Finally, once an owner has tackled these three issues, he or she should communicate those desires to family members and to advisors. This is the second element of the SOCP and can be easily accomplished using a Business Continuity Instruction Letter.

The task of contemplating your demise can be made easier (for you and for your family) if you create and fund a stay bonus plan and complete a Business Continuity Instruction Letter — sooner rather than later. Doing so is crucial if your business is to continue long enough to help provide your family the financial support you have worked so hard to achieve.

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