By Oren Saltzman

so you want to retire...

KEY QUESTIONS TO GET YOUR SUCCESSION PLANS STARTED

I can't count the times I have come across a business owner who just doesn't know how to start the succession planning process. If you want to retire at some point, you'll need to ask and answer three key questions:

1. WHO SHOULD TAKE CONTROL AND OWNERSHIP OF THE BUSINESS ONCE THE OWNER RETIRES?

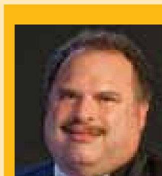
In a small business, usually control and ownership are centralized in the owner – the same person controls operations and receives the financial benefits of the business. But these interests may become divergent when the owner wants to retire. When the owner decides to retire, he or she can retain ownership of the business, continuing to receive the profits of the business, but transfer control to either family members or third parties. Another option is to transfer both control and ownership in a sale.

2. HOW SHOULD THE OWNER CONVEY THE BUSINESS TO THE PEOPLE WHO WANT TO PURCHASE IT?

Should the owner want complete extrication from the business, the next issue is determining the manner in which to convey the business. When conveying a business to family members, the owner must determine whether to transfer ownership interests in the form of a gift or as a purchase. If the owner wants to sell to a third party, he or she must decide whether to sell to key employees or to a completely unrelated party. If the owner wants to maintain ownership of the business but is willing to relinquish control over the operations, he or she may be able to transfer minority interests, depending on the type of business entity. Transferring minority interests can work to maintain ownership while relinquishing control, but it can still create incentives for family members or employees.

3. WHAT ARE THE TAX IMPLICATIONS RESULTING FROM THE TRANSFER?

The overarching goal in any succession plan should be to transfer the business to the new owner while ensuring that the existing owner incurs the smallest amount of taxes. Structure the sale so that the majority of taxable income is taxed at long-term capital gains rates. If the business succession plan involves family members, consider use of the annual gift exclusion for gift taxes, as well as the lifetime gift and estate tax exclusions.



Oren Saltzman is a managing member with the law firm of Adelberg, Rudow, Dorf & Hendler, LLC, which has offices in Baltimore and Howard County. He focuses on commercial and corporate law, banking, estate planning and administration, bankruptcy workout, taxation and guardianship. www.adelbergrudow.com.