

Hi this is Wayne Rivers at the Family Business Institute, thanks for tuning in. As always, we want to understand your comments so please click on the link below and let us know what you're thinking. And also suggest future topics for blogs that you'd like to see as it relates to your family company.

So, this week we have a suggestion, I won't mention any names, I don't want to embarrass anybody or call undue attention. But this suggestion was to talk about buy-sell agreements. And I know, oh gosh, well, most of you just clicked off because it's, buy-sell agreements, what could be more boring and horrible? Look there's no such thing as a simple buy-sell agreement. I had a lawyer friend once and he said people come to me all the time and they say, "I just want a simple buy-sell agreement between me and my brother." And his answer, and I agree with him, is there's no such thing as a simple buy-sell agreement because it requires you to be thinking about what might happen, what could happen in a year or five years or 10 years down the road. Or even 25 years as you consider how the next generation may be affected.

So, another guy came to me once and he said he was having a little trouble with his brother in his family business. One guy wanted to grow really fast and the other one not so much. And he said, "How do I go about bringing up this discussion with my brother, because he usually just pushes me aside and says he doesn't have time to talk about it right now." And I said, "One thing that you should do probably is bring up your buy-sell agreement 'cause I'm almost sure it's deficient 95% of the ones we see are." And being in a discussion about a buy-sell agreement is actually a clever way to talk about the future because you do have to anticipate what might happen, permutations and things like that of what if I die, what if you die, what if one of us becomes disabled, how do I want my stock to go, do I want to keep inside my nuclear family or could you buy me out? All those things.

So, it does require an element of future thinking and gets people going in the right direction. So, let that be a tip if you're having trouble engaging family members about the future and doing strategic planning. Bring up the buy-sell agreement because you'll do an element of strategic planning in the buy-sell.

What he wanted was a discussion, a general discussion of buy-sell agreements. But that's awfully broad for a few minutes of a blog. So, let me talk about one thing that we see all the time. Number one, the buy-sell agreements that we review and almost every family business has a buy-sell agreement of one form or another, most of them are pretty bad, they've got a lot of age on them. When two brothers for example, did a buy-sell agreement, they did it when they were 45 and now they're 65 and their kids have come into the business. So that would be a typical scenario and a buy-sell agreement that works for you at age 45 when your kids are little is not the same buy-sell that would work for you at age 65 when your kids are grown and they're working in the family, some of them anyway, are working in the family business with you.

We actually talked to a family, I actually did a report for a family yesterday. Four cousins, 25% each and no buy-sell agreement. Oh my gosh, my head almost exploded. I couldn't believe it. Three generations, they've never had a buy-sell agreement, I don't know how they've done it. But anyway, if you've got four shareholders in your

business, 25% each, 50/50 blocks of cousins could cancel each other out, by god you need a buy-sell agreement. Holy moly, I just, I don't even know what to think.

In this case let's talk about my two brothers here. At 45 if something happened to me, my brother would buy me out. Simple, wives are out of the business, they're financially secure, the operating brother who remains is in the business, he's secure relatively. So that makes a lot of sense. Well now we're 65 and I have one, this is true fact, I have one child in the business and he's has one child in the business. We have other kids but they're doing other things and we'll take care of them otherwise as far as inheritance goes. So, we said, "Hey, your buy-sell agreement is 50% okay but the main problem you have here if you got the wrong buyer and the wrong seller. Actually, the sellers were correct. So, if something happens to me, why, and I'm 65 and my son works in the business, why would I have my brother buy me out?" You understand? Because if that happens I just slammed the door on my very own son who's working here in a very competent fashion I might add. What we said was, just blow up the old buy-sell agreement and rewrite it so, we don't want to not have a buy-sell agreement, we do want if something happens to you, death, disability, disenchantment, protection from divorce etc., we do want your son to be able to buy you out. We can repurpose the insurance, all that kind of stuff, not much has to change but right buyers and right sellers.

What I'm saying is look at your buy-sell agreement objectively. First off you don't have one, call me and I'll berate you for 30 seconds and then maybe give you some tips on what a good buy-sell agreement should have. But the second thing is if you have a buy-sell agreement pull it out, it's probably been a long time and look at it objectively and see do you have the right buyers and the right sellers? Does your agreement only address death? Drop dead or does it also address things like what if I become disabled? What if I just want to take a year sabbatical from the business? What if we borrow money, does it contemplate things like that? So that the buy-sell agreement allows for equity among owners in a family business.

There's no such thing as a simple buy-sell agreement, they're always complicated, they're always fraught with problems. Pull yours out, take a hard look at it, get with your advisors and make sure you have 21st century buy-sell agreement that reflects the needs of the business today versus the needs of your business 20 years ago.

This is Wayne Rivers at the Family Business Institute. Thank You!