**8807. Why are buy-sell agreements often used in business succession planning?**

Use of a buy-sell agreement in the business succession planning context can mean the difference between the orderly withdrawal of a partner, whether by death or otherwise, and possible loss of control over a business by the remaining co-owners.[[1]](#footnote-1) In general, business succession planning is intended to ensure that the following goals are met:

(1) Preserving a deceased co-owner’s wealth and providing liquidity for his or her estate (the importance of liquidity cannot be overstated. The liquidity helps faciliate the payment of the taxes as well as provide a mechanism for the orderly division of the assets.);

(2) Providing the remaining owners with the security of knowing they will maintain control of the business without unwanted third-party intervention;

(3) Ensuring business continuity, if so desired by the remaining business owners;

(4) Potentially fixing the value of the business interest for estate tax purposes to avoid potential IRS intervention.

Interests in closely held corporations, LLCs, partnerships and sole proprietorships can have very limited markets for sale. This is particularly problematic when a deceased co-owner either has no heirs to inherit the deceased owner’s interest or has heirs who are poorly equipped or unwilling to take over the business. If the deceased business owner passes the interests to children who are not interested in continuing the business, they may be forced to sell their inherited interests at a discounted price to a third party. Executing a buy-sell agreement ensures that the business owner controls the disposition of business interests by allowing that owner to choose the buyer in advance. This type of succession planning also protects the value of the business as a whole and ensures that this value will pass to the owner’s estate without the need for protracted post-death negotiation.

Use of a buy-sell agreement can also ensure that the remaining business owners can continue the business without interference from a deceased owner’s heirs or the need for a third party investor following that owner’s death or early withdrawal from the business. The existence of the agreement will prevent a small business owner from selling the owner’s interests to outside investors who may not share the business vision of the remaining co-owners.

1. See Treas. Reg. §20.2031-2(h); *True v. Comm.,* TC Memo 2001-167. [↑](#footnote-ref-1)