LAW OFFICES OF

TYLER Q. DAHL

Securing Your Legacy:

How to Protect Your Personal and Professional Assets for the Next Generation

As a business owner, you have a multitude of daily responsibilities. Even after office hours, you probably answer emails, place or fill orders, and think about ways that you can strengthen the long-term viability of the company. But how much time do you spend planning for how your business will be run after you're gone? Or, for that matter, what will happen to your personal estate?

If the answer is "none," you're not alone. No one likes to think about a time when they will no longer be around to provide for loved ones or manage their business, but going through the estate planning process is necessary to avoid future complications.

When Aretha Franklin passed away without a Will in 2018, her family was put in the emotionally difficult position of deciding how to divide her estate. Since she was also a businesswoman, the decisions were a lot more complicated.

Countless California business owners have died without an estate plan, leaving the courts to determine who receives what according to the state laws of intestacy. It's probably not an outcome you want, but it can be avoided by creating an estate plan that covers your personal and professional assets.

Wills

Wills are the best-known of all estate planning tools. Even those who don't have substantial assets should have a Will that ensures their property will be distributed according to their wishes when they die. This includes your business: you can leave your shares in a partnership, corporation, or multi-member LLC to a beneficiary and unlike some states, single-member LLCs don't automatically dissolve if you leave your membership interest to a named heir.

Beneficiary Designations

Certain assets, such as life insurance and 401(k)s, can be passed to loved ones without including them in a Will, provided that you name a beneficiary for each one. It's also a good idea to name a contingent beneficiary in case the original recipient predeceases you so that you retain control over who receives the funds.

Durable Power of Attorney

A Durable Power of Attorney arrangement authorizes a named representative to act on your behalf if illness or disability prevents you from doing so yourself. They can carry out financial transactions, sell or acquire real estate, and make other legal decisions until you regain capacity or pass away. A Durable Power of Attorney can also authorize a trusted party to run the business on your behalf (for sole proprietorships or single-member LLCs) or participate in essential decision-making (for partnerships, corporations, and multi-member LLCs).

Living Trust

While living trusts can be used to protect personal assets, they are equally valuable as a business preservation tool. If you become incapacitated, your family can keep the business running and after your death, the business can go to the beneficiary, who may continue to run it. Other advantages of a Living Trust include protecting company assets from being seized to satisfy personal debts and reducing the amount of state inheritance taxes your heirs will have to pay.

Family LLC or LP

Forming a Limited Liability Company (LLC) or Limited Partnership (LP) allows you to gift assets to your family members in a way that reduces their value and protects them from taxation. It also enables you to protect assets from creditors and manage them after they have been gifted to ensure that nothing is squandered and gifts only become available after the beneficiary is of legal age.

Buy-Sell Agreements

A well-drafted and properly-funded buy-sell agreement can ensure the seamless transition and continuation of the business after you leave. It answers critical questions like:

- Who can buy a departing owner's share of the business?
- When can owners sell?
- How much will be paid for a shareholder or partner's interest?

When companies are co-owned, most owners buy life insurance on their partners so that when one passes away, the business can use the life insurance proceeds to buy their interest in the company from the estate.

Grantor Retained Annuity Trust

A Grantor Retained Annuity Trust is used to reduce the taxes on large financial gifts to members of your family. After you place assets in the trust, an annuity, which may be a fixed sum or a percentage of the trust, is paid out to the beneficiary every year. Upon expiration of the trust, the beneficiary receives the property tax-free. Items commonly placed into this kind of trust include business shares, stocks, bonds, mutual funds, and other assets expected to appreciate.

Life Insurance Trust

If you want to pass the business to a family member but it is worth more than the estate tax cap, a life insurance trust may be the solution. Take out a life insurance policy and place it in the trust, where it will not be subject to estate tax. If you leave your company to only one child, the policy can cover the estate taxes for the business and, if large enough, leave your other children an amount of money equal to the company's value.

The Bottom Line

An estate plan accomplishes several important objectives. In addition to distributing your assets in accordance with your wishes, it provides for your loved ones and other beneficiaries and allows them to access and control your assets (including the company) if you are temporarily or permanently incapacitated.

If you are a California business owner, the Law Offices of Tyler Q. Dahl will serve as a trusted advisor to you. We draw on our deep knowledge of all applicable tax, trusts, and estates, and business organization laws to identify the resources that are best suited to preserving your legacy to the maximum possible extent. We value the trust and confidence that our clients place in us and would welcome the opportunity to determine how we can serve you. Please **contact us** today!