

Family & Closely Held Businesses

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We have considerable experience in assisting and counseling family and closely held business owners to address and resolve the common and unique challenges and problems they encounter. Included with this scope of considerable experience are matters relating to formation, ownership, governance, operations, management, employment, acquisition, merger, divestiture, financing and ownership transition and succession. In addition, our firm has expertise in trusts and estates, taxes, benefits, real estate, intellectual property and litigation.

We have developed and are continuing to develop a special expertise in the transition and succession of ownership in family and closely held businesses.

Our Family & Closely Held Businesses Group attorneys help owners identify their succession goals and develop and implement a transition plan to achieve these goals. Although we use a customized approach with each business, our objectives are always the same—helping owners achieve what they want for their families, successors and businesses.

We design and help manage a process that guides family and closely held business owners and managers to do the work required to achieve the succession goals. Our experience, unique process, understanding of our client's business and desired results, and outside perspective are key to creating a successful transition plan.

Our transition plans integrate all of the major groups within the family and closely held business: the owners, board, managers, and, when applicable, family. We work with clients to ensure that each of these groups knows their role and responsibilities and how it integrates with other groups. We show how to balance the interests of the owners and managers if the interests of these respective groups are not aligned.

When the family or closely held business can benefit from other professional services, we help clients make connections with other professional advisors. We work with the client's existing professional advisors (even their attorneys) to ensure that their work is aligned with the transition plan.

Family Businesses

Family businesses are unique, blending family and business dynamics in a way not found with other companies. Mixing family and business often strengthens, and sometimes challenges, both the family and the business.

Signs of transition are usually reflected in questions asked by the founder and/or family members in the company. For example:

- How can I transition without “exiting” my business? Working at my company is the only thing I’ve done, and I’m not ready to retire.
- How can I get the cash I need and still pass my company to my children?
- How do I transfer my business to my family when some work there and others don’t, and still be fair to everyone?
- How can my children keep the business going if none of them works there?
- How do I decide which child runs the business?
- What do I do if a child is hurting the business?
- What will happen to the business when I die? When my spouse dies? When my parent dies?
- How can I get my managers to take on more responsibility?
- Should I keep or sell my (our) business?
- What do Dad and Mom really want?
- When do I get my chance at running the company?
- Can I be part of the business if I don’t work there?
- Why should my siblings get part of the business if they don’t work there?
- How do I tell Mom and Dad what I need without hurting them?
- When are my parents-in-law going to give my spouse a chance?
- Who can I talk to who knows something about this?

When these questions surface, owners can seek outside assistance to help them identify the underlying transition issues and how to adequately address these challenges.

Industry Involvement

We are actively involved in the family business community and networks of professionals who support family business growth, including:

- Attorneys for Family-Held Enterprises (AFHE), the only national organization for attorneys that is dedicated to family businesses
- American Council of Estate and Trust Counsel (ACTEC)
- The South Dakota Family Business Association
- The Family Business Alliance, a multi-disciplinary group of professionals that provides comprehensive, customized consulting services to families in business together
- The Board School, the country’s first school for owners, directors, and managers of family businesses
- *The Balance Point: New Ways Business Owners Can Use Boards*, 2008, Famille Press: A must-read book for entrepreneurs wishing to transition their roles within family businesses while remaining involved and for family businesses owned by

multiple owners

- The Family Business Advisors Group provides education and networking opportunities among family business advisors to further the work of advisors and enhance the success of their family business clients.

Practical Takeaway

Family and closely held businesses are unique. Their continued success depends on how well the owners can navigate the various business and transition challenges brought about by changing circumstances. These challenges are best addressed with the help of outside legal and other professional resources that have helped many family and closely held businesses effectively address these challenges.

Experience

Fredrikson's Family & Closely Held Business Group has extensive experience in helping owners successfully resolve all sorts of transition challenges to continue their goal of keeping their businesses, including the following:

- Helping entrepreneurs transition in a way that works for them (not as someone tells them it has to be)
- Keeping ownership within the family or specific "closely held" group
- Passing the business to the founder's children and/or key employees, but also needing to get paid the value of the company
- Advising multiple owners who don't want a single owner to dominate the others
- Working with businesses that have some existing and future owners who are employed in the business and others who are not
- Counseling younger owners or prospective owners wondering what they can do as they wait for their turn to run the business
- Advising non-family or non-related managers struggling with how to serve the owners and the business
- Helping owners assess whether they keep or sell their business
- Helping businesses who have unexpectedly lost a key person and people don't know what to do
- Managing/minimizing the estate tax burden associated with transitioning a family or closely held business
- Providing ways to buy out owners who no longer want to be owners without jeopardizing the business
- Dealing with the role and interests of spouses in a way that supports family and/or ownership unity and does not upset the transition goals for the business
- Making sure the wills and trusts for the owners support the plan to transition the ownership of the business—everything has to work together

- Handling the varying interests that exist in today's family/ownership environment (blended families, significantly younger spouses, adopted children, children out of wedlock, etc.)
- Having a clear distinction between the roles of owners and managers.
- Establishing the type of board that meets the goals and needs of the owners
- Training boards to do what the owners want, rather than what individual directors want

Representative Clients

Fredrikson's Family & Closely Held Businesses attorneys work with many different types of private companies, using a practical and effective approach. We never lose sight that we are helping clients with their livelihood, so we take our work seriously and work hard to use the law and our knowledge and experience to meet the complex challenges of today's family and closely held businesses.

Here is a sampling of the types of clients we have helped:

- Founders and entrepreneurs who have worked all their lives in their businesses and who now want to change their role but still be involved in their business
- Younger generations who want to learn how they can own and operate the family/closely held business when the founder or entrepreneur is not involved
- Family businesses owned by next generation family members, some of whom work at the company and some of whom don't
- Businesses where the owners and managers are different people, ranging from none of the family owners working at the company to owners working at the company but not in management
- Non-family managers whose careers are tied to the continuation of the family business
- Companies owned by first and second generations to companies owned by third, fourth, and fifth generations (all at the same time)
- Companies with one owner (the founder) who wants to pass his or her business to her children, to businesses owned by ninety owners (fourth and fifth generations) who want their business to continue into the sixth generation
- Businesses that are in their first stages of growth, with revenues in the \$10M to \$20M range, to mature businesses with revenues exceeding \$100M
- Manufacturers, suppliers, distributors, natural resources operations, construction companies and hi-tech, international, and personal service firms
- Families/owners who have never owned anything together before and who never thought they could or don't know if they can
- Families/owners with difficulties and businesses with challenges