

# “What happens when a Business Owner dies, becomes disabled, or suffers a major health trauma?”

Upon the death, disability or major health trauma of one of several business owners who has been active in the operating of the business, the remaining owners must accept one of these alternatives.

## BUY OUT THE DECEASED/DISABLED OWNER'S INTEREST

*The problems here are:*

- Determining the price.
- Raising the money.
- Agreeing terms of payment.
- Stained negotiations and legal delays may make it difficult to reach a mutually acceptable position.
- If there are no other buyers, the parties may feel that they are paying too much or receiving too little respectively.
- What will happen if the deceased/disabled owner has given a Personal Guarantee to support a business loan?

## TAKE THE DECEASED/DISABLED OWNER'S REPRESENTATIVES INTO THE BUSINESS

*The problems here are:*

- Will they support or oppose the decisions of the remaining shareholders?
- Will they want to change dividend policy or existing remuneration?
- Will they be qualified to assume their share of business responsibilities?
- What if some are minors represented by a guardian?
- Do they have the resources and willingness to support the business if additional capital is required?

## SELL THE INTEREST OF THE DECEASED/DISABLED OWNER'S REPRESENTATIVES

*This will not be a practical option unless:*

- They are qualified to operate the business.
  - The remaining owners are willing to sell and either retire from the business or remain as employees.
- Additionally there are still the problems of:*
- Determining the price.
  - Raising the money.
  - Agreeing the terms of payment.
  - Supporting business debt with Personal Guarantees and assets.

## TAKE OUTSIDERS INTO THE BUSINESS TO PURCHASE THE DECEASED/DISABLED OWNER'S INTEREST

*The problems here are:*

- Outsiders may not be interested, particularly if it is a minority interest.
  - Will they want to change dividend policy or existing remuneration?
  - Will they be qualified to assume their share of business responsibilities?
  - Do they have the resources and willingness to support the business if additional capital is required?
- Additionally there are still the problems of:*
- Determining the price.
  - Raising the money.
  - Agreeing the terms of payment.

## LIQUIDATE THE BUSINESS OR SELL TO A THIRD PARTY

*The problems here are:*

- Will the remaining owner(s) and the deceased/disabled owner's representatives agree on a value?
- If the sale or liquidation is delayed there may not be sufficient cash to pay all debts. This may result in the forced sale of personal assets to meet personal guarantees.
- Unless all parties can agree, this alternative may be forced on them. A business in liquidation or facing a forced sale has a much lower value than that of a going concern.

**“A funded business continuation (buy/sell) agreement is the only effective solution”**

