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INSIGHTS

"A well-structured estate plan protects your family and your assets, and makes the process as straightforward as possible for your beneficiaries and family, while minimizing state and federal estate taxes."

Estate Planning Tips for Food and Beverage Entrepreneurs

Q: WHAT IS ESTATE PLANNING?
JOHANNA WISE SULLIVAN: Estate planning entails planning for the care of your family and your assets in the event of your death or incapacity as efficiently and seamlessly as possible. This includes naming guardians for your minor children, as well as fiduciaries to oversee the transfer and management of assets for your family and other intended beneficiaries. For wealthy individuals, estate planning includes tax planning as well.

Q: WHY SHOULD FOOD AND BEVERAGE ENTREPRENEURS SET UP AN ESTATE PLAN?
JWS: There are two broad objectives of estate planning. First is the transfer of assets to your intended beneficiaries in a way that is sensible under the circumstances. The second objective is efficiency, in that it will minimize the time and expense of transferring assets. An estate plan should be structured in a way that will make the process as straightforward as possible for your beneficiaries and family while minimizing state and federal estate taxes. Entrepreneurs have the additional consideration of what happens to the business in the event of their death or incapacity, which requires attention from the perspectives of both the business and the individual.

Q: ARE THERE ANY CORE ESTATE PLANNING DOCUMENTS?
JWS: Every estate plan should include these four documents: will; revocable trust; power of attorney; and health care proxy.

Q: WHAT TYPE OF PROPERTY IS TAXED IN AN ESTATE?
JWS: Food and beverage entrepreneurs should be aware that property, of all types, over which you exert ownership or control is subject to taxation. Property titled in your own name or held jointly with another person; property you have transferred to your revocable trust; life insurance on your life, if you have the ability to change the beneficiary; and some interests in trust, if you have certain rights or control over the property, may all be taxed. For estate tax reporting, property is valued at the date of death. For gift tax reporting, property is valued as of the date of the gift. Entrepreneurs should also be aware that there are deductions available.

Q: COULD YOU ELABORATE ON POTENTIAL TAX PLANNING OPPORTUNITIES?
JWS: Entrepreneurs should consider making gifts, usually to an irrevocable trust for the benefit of family members, early in the life cycle of the business when valuations are relatively low, as all of the future growth then avoids estate tax.

Q: HOW CAN AN ESTATE PLAN PROVIDE PROTECTIONS FOR A SPOUSE OR CHILDREN?
JWS: A properly structured plan for a married couple will defer payment of estate taxes, to the extent possible, until both spouses have died, and will ensure that the couple makes maximum use of their combined state and federal estate tax exemptions. Typically, trusts are used to achieve the tax benefits. Trusts can also dictate where the assets owned by the first spouse go following the death of the second spouse, which can be especially important in blended families and "non-traditional" family structures.

For non-spouse beneficiaries, there is no "one size fits all" approach for how to pass property to your children, grandchildren, and others, and the right solution will depend on the circumstances of the people involved, as well as your priorities. There can be benefits to leaving assets in trusts for children, grandchildren, and other beneficiaries. Trusts provide oversight and management of property; creditor protection, including in the event of divorce; estate and income tax planning; and flexibility. In any event, it is important to review your estate plan periodically as beneficiaries mature and circumstances change; what made good sense for school-age children may no longer make sense for adult children who have businesses and families of their own.

Q: WHAT STEPS SHOULD FOOD AND BEVERAGE ENTREPRENEURS TAKE TO ENSURE THEIR BUSINESS SURVIVES AND THEIR FAMILY CONTINUES TO RECEIVE VALUE?
JWS: For many entrepreneurs, their business is akin to a child. And like caring for a child, entrepreneurs should think carefully about what would and should happen to the business if they were no longer around. This will change as a company grows and matures, but it is important along the way to consider who else on the team has the ability to manage the business, and investors like to see that type of planning as well. In addition, it is important to consider who will assume ownership and control of the entrepreneur's interest in the company, and to create a structure that will protect both their family and the business itself. If the business is the entrepreneur's life's work, then life insurance may be necessary to protect their family and ensure the preservation of value in the case of death.

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