

**JONES
WALDO**
Park City Group



The Park City Practice

WELCOME TO THE SECOND EDITION OF THE PARK CITY PRACTICE, a quarterly newsletter featuring legal information for the Park City community. This edition of *The Park City Practice* focuses on estate planning. It also provides a brief history of Jones Waldo and a biography of Jones Waldo's Estates & Trusts practice group. Future editions of *The Park City Practice* will feature articles on real estate, family law, employment law, litigation and business law.

Avoiding Succession Planning Mistakes That Could Kill Your Business

Many business owners fail to establish a viable blueprint for leaving a business behind. Reluctance to pursue proper succession planning is common, but a comprehensive succession plan should be part of every business plan.

Only 30 percent of family-owned businesses make a successful transition to the second generation, and fewer than 10 percent make it to the third. Many owners don't have an emergency or business "transition" plan for company owners and key employees. Death, heart attacks, strokes, auto accidents, unexpected illnesses, or unanticipated resignations or terminations can instantly throw the company into turmoil.

If there is no such "transition" plan in place, disorganization, loss of business opportunities, loss of customer or market share, and a decrease in employee morale and productivity may likely result. These problems may continue for a long time and could cause the ultimate demise of the company. Tragedies come without warning. A business "transition" plan can divert disaster and enable the company to survive without suffering damaging consequences.

You may be thinking, "I don't have a family business," but this planning concerns anyone who wants their business to survive when they are gone.

Dealing with business succession can be more difficult than creating a business plan since often emotions come into play.

However, in this type of planning, business goals, values and objectives should be the controlling factors in business decisions, not emotions.

You have to ask yourself...

Business owners need to understand that failing to properly plan for retirement or death affects not only the owner, but the owner's family and any co-owners of the business. When planning, strategies such as generation-skipping and gifting should be considered. Finance, corporate, tax and estate-planning laws are all part of the succession equation.

To evaluate the health of your business ask yourself these questions:

- ① If an owner dies prematurely, will the business have the necessary capital to survive?
- ② If an owner dies suddenly, will business partners pay the owner's heirs the value of his or her interest in the business?
- ③ Have you adequately planned for payment of any estate taxes on the value of your business when you die?
- ④ If inadequate planning has been made, where or when will a retiring owner receive the income to afford retirement?
- ⑤ Can the business afford to pay the retiring owner's replacement (person) and still pay the retiring owner?

When Should You Plan?

Since no one knows when tragedy could strike and a business owner or key person could die or become disabled, business owners should really have a succession plan as an integral part of their complete business plan when they start the business. Since many businesses are already established then it should be apparent that this planning needs to be done immediately.

The company's business succession plan should cover all possible eventualities if the business had to be turned over to someone else. This exit strategy should address retirement, death, disability, and any other possibilities that might impact the situation. The succession plan should include life and disability insurance to ensure business operation if the owner dies or becomes disabled.

Other strategies, such as an Employee Stock Ownership Plan (ESOP) or business alliances, could provide operating capital or management in extreme circumstances. The details of how the business should be sold or liquidated (if that becomes necessary) should be included.

Answering the basic questions, reviewing the alternatives and their impact, and a continuing dialogue among business owners, key employees and family members are crucial components in a plan for succession. With appropriate guidance, a business owner can create an effective succession plan to keep the family together and maximize the probability of continued business success.

The Estates & Trusts Practice Group *at Jones Waldo*

Without estate planning, an individual can lose up to 50% of their accumulated wealth to federal and state inheritance and estate taxes, or up to 70% if proper planning for IRA's and 401(k)'s is not implemented. The attorneys with the Jones Waldo Estates & Trusts Practice Group have the tools to help you manage your resources and plan for the future. Our wide range of expertise includes:

- Wills and Living Trusts
- "Special Needs" Trusts
- Titling of Property
- Second Marriage Planning
- Powers of Attorney for Property
- Health Care Documents—Living Wills, Powers of Attorney for Health Care, HIPAA Authorization Forms
- Death-Beneficiary Designation Planning
- Coordination of Estate Planning with Investment & Retirement Planning
- Real Estate Transactions
- Asset Protection Trusts
- Lawsuit Protection Strategies
- Charitable Trusts, Foundations, & Supporting Organizations
- Coordination of Estate Planning & Tax Planning
- Business Succession Planning
- Formation of Corporations, Limited Liability Companies, and Limited Partnerships
- Medicaid Eligibility Planning
- Nursing-Home Insurance Analysis
- Probate of Wills & Estate Administration
- Trust Administration
- Interstate Administration
- Guardianships & Conservatorships
- Post-Mortem Tax Planning
- Maximization of Wealth Transfers from Generation to Generation
- Income, Gift and Estate Tax Preparation for Estates & Trusts
- Estate & Trust Litigation
- Lifetime Gift Planning
- Generation-Skipping Transfer Planning



History of Jones Waldo

Jones Waldo is a firm of more than 75 lawyers based in Salt Lake City, with offices in Park City and in St. George, Utah. Founded in 1875 by Joseph L. Rawlins, who became Utah's first full-term U.S. Senator, Jones Waldo has grown to become one of Utah's largest and most diversely experienced law firms. Jones Waldo has over 50 specific practice areas with attorneys focused primarily on real estate law, environmental and natural resources law, employment law, family law, litigation, estate planning and corporate law.



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