

**Legal Mumble Jumble:
How to Decipher the Different
Legal Documents for My Business**

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**Honoring the Past,
Focusing on the Future**

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Learning Outcomes

- List the different types of business documents that control their entity.
- Explain why buy-sell agreements are created and understand what is contained in them.
- Identify and articulate how business and estate planning documents interact and impact transitions.

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**What Does Law Have to do
With Business?**

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Ice Breaker

List all of the legal documents that impact your business.



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Possible Business Documents



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Personal Documents

- | | | | | | |
|-------|--------|-------------------|-----------------------|--------------------|-------------------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| Wills | Trusts | Real Estate Title | Prenuptial Agreements | Beneficiary Status | Divorce Documents |



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How Planning is Usually Done

- Business and asset-focused.
- An event or short-term process with concrete outcomes.
- Transaction based with legal/accounting underpinning with product sales and very little interest conversation.
- Defined by advisors & led by them.
- Typically done with one or two family members and usually from the view of one generation at the table.
- Very task-oriented.



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What is NOT Being Addressed?

- Different views from different generations.
- Lack of communication regarding the framework for all involved.
- Difficult conversation avoidance and lack of knowledge.
- Reluctant owners and passive successors.
- Worry about managing business while creating the plan.



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Consequences to Each Choice

- Legal
- Relationship
- Effect Upon Trigger
- Review



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Buy Sell Agreements
for Closely Held and
Family Business
Owners
Author :
Z. Christopher Mercer,
ASA, CFA, ABAR

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Viewpoints

- Owner's
- Buyer's
- Spouse's
- Generational

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Buy-Sell Agreements

- Define who can be a shareholder and who can buy.
- What will happen under “triggering events.”
- What price will be paid and how (under what terms) it will be paid.

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How Long Has It Been?



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Solutions to Objectives


- Why does the buy-sell exist?
- What do you want to accomplish?
- Whose interests are at stake?
- How and when will it work?

Who

What

Why

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Master Planning is Business Strategy & Project Management

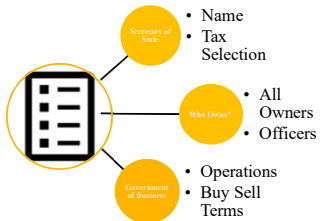
- This is about building, harvesting, and preserving family wealth for generations to come.
- It is about integrating best in class business practices into daily operations.
- Focusing on enterprise value drives positive outcomes for all including better lifestyle.
- Working as a team uncomplicates the process and improves the experience for owners.

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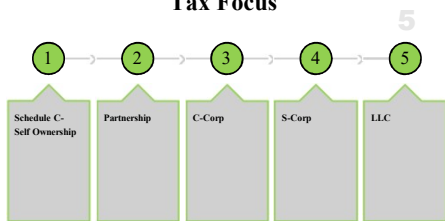
What Goes Into the Starting Documents?



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What Are the Types of Business Formation? Tax Focus



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Defining Elements of Buy-Sell

- Standard of Value
- Level of Value
- The “as of” Date
- Qualifications of Appraisers
- Appraisal Standards
- Funding Mechanisms



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Terms You Need to Know

- Discount Rates
- Fair Market Value
- Projected Cash Flow
- Historical Cash Flow (3-5 years)
- Customer Concentration
- Fixed Price
- Formula Agreement
- E.B.I.T.D.A. (earnings before interest, taxes, depreciation, amortization)
- Asset Approach-Actual Value of Assets (real estate heavy)
- Book Value

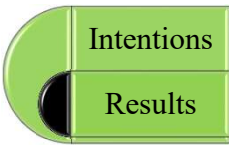


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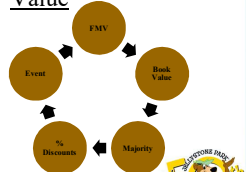
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A Rose is a Rose . . . Or is it?

Language Is Critical



Value



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What Is The Value?

- | | |
|-------------------------------|---|
| Is it Defined? | <ul style="list-style-type: none"> • Look to the Buy-Sell • Fixed, Formula, Shotgun, Valuation Process |
| What is the triggering event? | <ul style="list-style-type: none"> • 80% of transactions are unplanned • Five D's, 20 D's, Q.R.F.R.D.D.D. |
| How will it be funded? | <ul style="list-style-type: none"> • Insurance Cash Reserves Sell • Loans Private Equity |




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Money Can Be Different For Each

Death →
 Disagree →
 Disability →
 Disaster →
 Divorce



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How Are You Using Your Advisors?


 Lawyers


 Accountants


 Insurance Broker
Financial
Advisor


 Financier





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Why Team?





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What Do Families Say They Need From Advisors?

The soft stuff. It is the non-technical, people-based issues that cause the stall and impasse.

Skills beyond professional qualifications are required in order to be effective.

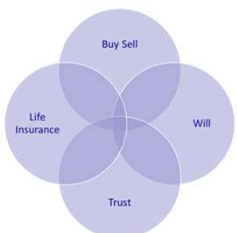
Team leadership is what helps deliver better value for clients.




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Estate Documents And Business Documents






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Which One Rules? Campground Confusion

You own campground confusion. One company owns the land; it is owned by you, your two siblings, and your Mom and Dad. You and your siblings each own 10% of the company, and Mom and Dad own the remaining 70% equally. The documents currently say that you will purchase each person's shares as they pass. What questions should you have?

- What documents should you be reviewing?
- What are the legal documents that impact this business?
- How will you buy these stocks?
- What are possible valuations methods?
- What is the income in this business? How is it set?



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Documents Bumping in the Night



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Document To-Do's

- Document your financials and make sure they are up-to-date.
- Document your intangibles.
- Map out a plan for customer retention OR create one.
- Create a plan for vendor retention and transfer of vendor relationships.
- Make sure your tax filings are current and corporate records are up-to-date. They will ask for three to five years of records.
- Have a good explanation and records for the "red herring" events.
- Get rid of all your personal perks.

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Food for Thought

- When you are preparing to sell, it is worth having a higher tax bill.
- You must become financially independent of your business.
- If your business is having success, SAVE FOR TOMORROW. The money from the sale will be icing on the cake.
- What you lose in negotiating the little things, you can make back for you in well-drafted documents.
- Think about earn-outs – they can make you big money.
- Buyers look backward and Sellers look forward.
- Due diligence - They will look at everything. Customer story.

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Tips

- Know what your documents say and how they apply BEFORE you hit a triggering event.
- Plan for conflict - it is everywhere.
- No commitment to exit or planning WILL result in the loss of customers and family relationships.
- Family that sticks around and is waiting for you to retire or die, become resentful and competition between management will eat the business like a cancer.
- Create a well-articulated plan and be transparent to your stakeholders.
- Create a process for relationship-transfer, as well as intellectual property transfer.



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