LIVING LEGACY
FINANCIAL & INSURANCE SERVICES

Business Owner Newsletter

NO MORE NON-COMPETES

The U.S. Federal Trade Commission has up-ended one of the most common aspects of executive employment, banning non-compete agreements as, in the words of the announcement, 'an unfair method of competition.' The ban covers everyone except senior executives who are in a 'policy-making position," for whom existing noncompetes will be grandfathered.

The final Rule defines a *"non-compete clause" as "a term or condition of employment that prohibits a worker from, penalizes a worker for, or functions to prevent a worker from (1) seeking or accepting work in the United States with a different person where such work would begin after the conclusion of the employment that includes the term or condition; or (2) operating a business in the United States after the conclusion of the employment that includes the term or condition."*

The Rule applies broadly to all employees, independent contractors, externs, interns, volunteers, apprentices, or sole proprietors who provide a service. However, non-disclosure agreements and non-solicitation agreements that would not prevent a worker from taking a new job or starting a new business are still considered legally valid, subject to state laws. If the noncompete ban holds up in court, then it will take effect later this year, and the FTC expects that 30 million people—one in five American workers—will be affected. The impact could lead to more people moving to new jobs more freely than they could when non-competes were enforceable. The FTC suggests that the ruling will lead to a 2.7% increase in the rate of new small business creation, resulting in an additional 8,500 new businesses created each year.

But there will definitely be a court challenge. The U.S. Chamber of Commerce, a trade organization for Corporate America, has lobbied furiously against the proposal, and has promised to take the matter to litigation.

Sources:

https://www.npr.org/2024/04/23/1246655366/ftc-bans-noncompete-agreements-lina-khan

https://www.ftc.gov/legal-library/browse/rules/noncompete-rule

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WHAT'S YOUR PLAN WHEN PLANS CHANGE?

What should you do if a plan you made isn't working out? Let's look at how Exit Planning can position business owners to successfully adjust to changing conditions.

Adjusting Over Abandoning

Over the past few years, many business owners have learned that even their best plans can quickly go awry. This can lead to a temptation to abandon planning. However, there could be a better way.

A major benefit of Exit Planning lies within its flexibility. This flexibility derives from a strict adherence to achieving an important goal: financial stability for the business owner. This goal is the foundation on which you'll pursue your other goals, such as *when* you leave your business, *to whom* you sell your business, and *what you'd like to pursue* after you no longer own the business. To do this successfully, the Exit Planning Process must be flexible.

While achieving financial stability is complex, the fact that every planning element moves toward achieving this goal regardless of the circumstances, injects simplicity and focus into the planning process. This can make it less devastating when something doesn't go precisely as planned, because there are multiple ways for business owners to achieve financial stability rather than just one.

Diversifying Strategies

Almost every financial advisor and risk management specialist will tell you that diversifying is a cornerstone of success. In Exit Planning, your Advisor Team will likely consist of a diverse array of professionals (e.g., lawyers, financial planners, CPAs/CAs) whose experience can offer various strategies for success, along with backup plans.

For example, you may begin the Exit Planning Process by pursuing a third-party sale because it can offer the quickest means by which to achieve financial security. However, you may discover that the quickest way to achieve financial stability doesn't align with other goals, such as when a third-party buyer intends to shut down local operations and put employees you care about out of work.

The Exit Planning Process could help you craft backup plans that align values-based goals with your financial stability goal, which can better position you to exit on your terms.

The diversity of your Advisor Team's experience could help you see a fuller picture of what you want from your planning and how your planning can adjust to fit new wants and needs. Even when things don't go exactly as planned, you can still move forward without having to start all the way over.

Planning That's Dynamic

Like your business itself, Exit Planning is rarely static. It can evolve as your wants, needs, and desires evolve while still offering guardrails that prevent the plan from becoming scattershot or based too heavily on fads or fleeting emotions.

That's because Exit Planning includes short-term goals, such as determining a business' current value, and longer goals, such as establishing next-level management teams and building additional business value. These goals often work with each other and affect each other fluidly.

The depth of your Advisor Team's knowledge acts as the gears and mechanisms of a finely-tuned watch, which tells you where you are in your planning and what to expect. But like a finely-tuned watch that travels across a new time zone, your Advisor Team can adjust your planning when things change, allowing you to keep your eye on what you need to do to meet your goals.

We strive to help business owners identify and prioritize their objectives with respect to their businesses, their employees, and their families. If you have questions on this topic, we can help with more information or a referral to another experienced professional.

MEET OUR TEAM

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