



★ ★ ★ ★ ★
NECA
2018
PHILADELPHIA
★ ★ ★ ★ ★
SEPTEMBER 29–OCTOBER 2

CONVENTION EDUCATION

Planning Your Future: Business Succession & Estate Planning



Planning Your Future: Business Succession & Estate Planning



Nate Sannes
Regional Marketing Manager
Federated Insurance Companies



Clif Guise
Partner
Halbruner, Hatch, and Guise, LLP

**This session is eligible for
1 Continuing Education Hour**

For these hours to appear on your certificate, you must:

- Have your badge scanned at the door
- Attend 90% of this presentation
- Fill out the online evaluation for this session: www.necanet.org/neca2018

Preserving Your American Dream

3

NECA 2018
CONVENTION EDUCATION 

You are Unique

- 1 in 45 people have owned a business.
- 1 in 125 people have owned a business with more than five employees.

— Small Business Association, Office of Advocacy FAQs; pub. March 2014; www.sba.gov/advocacy

4

NECA 2018
CONVENTION EDUCATION 

You are Important

- 49% of the private sector works for a family-owned business.
- Small businesses account for 99% of all firms.

— Small Business Association, Office of Advocacy FAQs; pub. March 2014; www.sba.gov/advocacy

5

NECA 2018
CONVENTION EDUCATION 

Small businesses are the backbone of our economy.

...and yet...

6

NECA 2018
CONVENTION EDUCATION 

30% of family-owned businesses
survive to a second generation.

Only 15% make it to the third generation.

...not very good odds...

— Small Business Association, Office of Advocacy FAQs; pub. March 2014; www.sba.gov/advocacy

7

NECA 2018
CONVENTION EDUCATION 

Why?

There are many causes:

- Emotions
 - Family / Partners
- Financial Uncertainty
- Marketplace Changes / Competitors
- Supplier Relationships



8

NECA 2018
CONVENTION EDUCATION 

So what's different with the 15% who survive?



9

NECA 2018
CONVENTION EDUCATION 

To survive it takes:

- The right people - Specialists
- A Plan



10

NECA 2018
CONVENTION EDUCATION 

And yet,

Only 28% of family-owned businesses have a formal succession plan.

Why?

11

NECA 2018
CONVENTION EDUCATION 



Clif Guise

Partner

Halbruner, Hatch, and Guise, LLP

12

NECA 2018
CONVENTION EDUCATION 

What is Estate & Business Succession Planning?

- Rational disposition of assets during lifetime or at death

Who, when, and how you want

- Provides for a minimization of death and transfer taxes

13

NECA 2018
CONVENTION EDUCATION 

What is Estate & Business Succession Planning?

- Designates successor caretakers
- Protects you from creditors and predators

14

NECA 2018
CONVENTION EDUCATION 

Federal Estate Tax History

| <u>Year</u> | <u>Exclusion Amount</u> | <u>Rate</u> |
|-------------|-------------------------|-------------|
| 2002–2003 | \$1 M | 50% |
| 2009 | \$3.5 M | 45% |
| 2010 | N/A | N/A |
| 2011- 12 | \$5 M | 35% |
| 2017 | \$5.5M | 40% |
| 2018 | \$11.18 M | 40% |

15

NECA 2018
CONVENTION EDUCATION 

State Estate Taxes Exist Too

Ex. Pennsylvania Inheritance Tax

| <u>Beneficiary</u> | <u>Rate of Tax</u> |
|----------------------|--------------------|
| • Spouse | 0% |
| • Lineal Descendants | 4.5% |
| • Siblings | 12.0% |
| • Everyone Else | 15.0% |
| • Charity | 0% |

16

NECA 2018
CONVENTION EDUCATION 

Four Ways To Pay Estate Taxes

- Available cash
- Borrowing— High interest cost. The most expensive way.
- Sale of assets
- Pre-funding with life insurance.

17

NECA 2018
CONVENTION EDUCATION 

Gifts

Annual Exclusion: Each taxpayer may give \$15,000 per person each year without reporting it. (\$30,000 for married persons filing jointly)

Lifetime Exemption: The unified credit allows gifting of \$11.18M during any individual's lifetime or at death.

18

NECA 2018
CONVENTION EDUCATION 

Step-Up in Basis

Any property that is taxable (including amounts under the Exclusion Amount) is entitled to a step-up in basis.

Example

- Taxpayer purchases stock for \$100/share.
- At time of Taxpayer's death stock is valued at \$150/share.
- Taxpayer's beneficiaries inherit stock as if they paid \$150/share.

19

NECA 2018
CONVENTION EDUCATION 

You already have an Estate Plan

- As an example, Pennsylvania Law provides default rules for the disposition of probate assets at death if there is no will.

| | |
|----------------------------|---|
| Wife | \$30,000 plus ½ of remaining estate Or ½ of total estate |
| Children or Parents | Split the remainder of the your estate. |

20

NECA 2018
CONVENTION EDUCATION 

Basic Planning Wills

- Written direction which controls disposition of assets at death
- Must be signed correctly
- Disposes of assets
- Designates fiduciaries
 - Executor/personal rep./administrator
 - Trustee
 - Guardian

21

NECA 2018
CONVENTION EDUCATION 

Basic Planning

Other Basic Estate Planning Documents

- Living Will/Advanced Healthcare Directive
- Power of Attorney – Medical and/or Financial
- HIPPA Release

22

NECA 2018
CONVENTION EDUCATION 

Advanced Planning Trusts

- Reduce Federal Estate taxes & Probate Expenses
- Protect your heirs from creditors and predators
- Protect Assets from Long Term Care Expenses
- Retain confidentiality
- Avoid Ancillary Probate
- Assure transfer to whom you want, when you want it

23

NECA 2018
CONVENTION EDUCATION 

By-Pass Trust

- Allows Husband and Wife to both utilize Federal Estate Tax Exemption and pass \$22.36M free of Federal Estate Tax
- Portability – Allows for election to use deceased spouse's exemption by filing Federal Estate Tax return upon death of spouse.


24

NECA 2018
CONVENTION EDUCATION 

Dynasty Trust

- Keeps assets within family
- Controls assets for benefit of multiple generations. Can define standard for distribution.
- Trustee can be family member or corporate fiduciary
- Protect Assets from beneficiary's divorce, bankruptcy or other creditors

25

NECA 2018
CONVENTION EDUCATION 

Irrevocable Income Only Trust

- Protects assets placed in Trust from Long-Term Care Expenses.
- Grantor/Settlor can still control assets during their lifetime.
- Subject to Five Year look-back. (Not all or nothing)
- Note: Eligibility is a very state specific, so you need to verify with local experienced attorneys.

26

NECA 2018
CONVENTION EDUCATION 

Irrevocable Life Insurance Trust

- Protects policy proceeds from estate taxes
- No income tax
- No investment management needed
- Existing Policies subject to 3 year look-back

27

NECA 2018
CONVENTION EDUCATION 

The Family Limited Partner/Limited Liability Company

- General Partner Retains management control
 - General Partner can retain FLP profits to meet reasonable needs of business.
 - General Partner is entitled to a management fee.
 - Limited Partners have no voice in management decisions; cannot demand distributions of profits; cannot demand a return of capital; and cannot easily assign their interests.

28

NECA 2018
CONVENTION EDUCATION 

The FLP/FLLC

- Tax advantages
 - Income shifting possibilities
 - Assets gifted to the FLP (and the future appreciation on those assets) are outside of the donor's estate.
 - Valuation discounts

29

NECA 2018
CONVENTION EDUCATION 

Buy-Sell Agreements A “Will” for your Business

- There is no default “state plan” other than the free market.
- Can be between several types of business partners, children, employees, competitors, etc.

30

NECA 2018
CONVENTION EDUCATION 

Buy-Sell Agreements Objectives

- Guarantees a market
- Guarantees control remains in the hands of the surviving or remaining partner(s).
- Guarantees that professional license can transfer and contractual relations can continue.
- Fixes the value of the corporation for estate and gift tax purposes.

31

NECA 2018
CONVENTION EDUCATION 

Buy-Sell Agreements Triggering Events

- Death
- Total and permanent disability
- Retirement
- Voluntary termination of employment
- Involuntary termination of employment
- Desire to sell to third party
- Involuntary Transfers (bankruptcy, divorce, etc.)

32

NECA 2018
CONVENTION EDUCATION 

Buy-Sell Agreements Purchase Price Formulas

- Establish Value for Business
 - Partner/Shareholder Agreed Upon Value
 - Book value
 - Adjusted book value
 - FMV determined by CPA
 - Capitalization of earnings
 - Industry formula

33

NECA 2018
CONVENTION EDUCATION 

Buy-Sell Agreements Payment Methods

- While Alive
 - Payments over time
 - Lump Sum
- At Death
 - Life Insurance
 - Payments over time
 - Lump Sum

34

NECA 2018
CONVENTION EDUCATION 


Business Owners Often Admit...

I know I have a problem...but what do I do about it?

COMMIT

Once you commit, it's a simple process.

35

NECA 2018
CONVENTION EDUCATION 

6 simple steps

- Say “yes”
- Meet with facilitator / complete fact finder
(facilitator preps attorney for meeting)
- Meet with attorney / decide on course of action
- Sign documents and secure funding
- Adhere to a timetable
- Review

36

NECA 2018
CONVENTION EDUCATION 

Thank you! Questions?

Don't forget...

- 9:00 am-1:00 pm: NECA Show
- 1:15 pm-2:30 pm: Closing General Session with Jon Dorenbos
- 7:15 pm: Closing Celebration – Foreigner

