



Michigan Aggregates Association 2019 Annual Conference Succession Planning



Importance of the family business

- Approximately 90% of U.S. businesses are family owned
- Family businesses employ 62% of the United States work force
- 17 million family businesses in the United States represent 64% of our gross domestic product
- 35% of business that make up the S&P 500 are actually family controlled

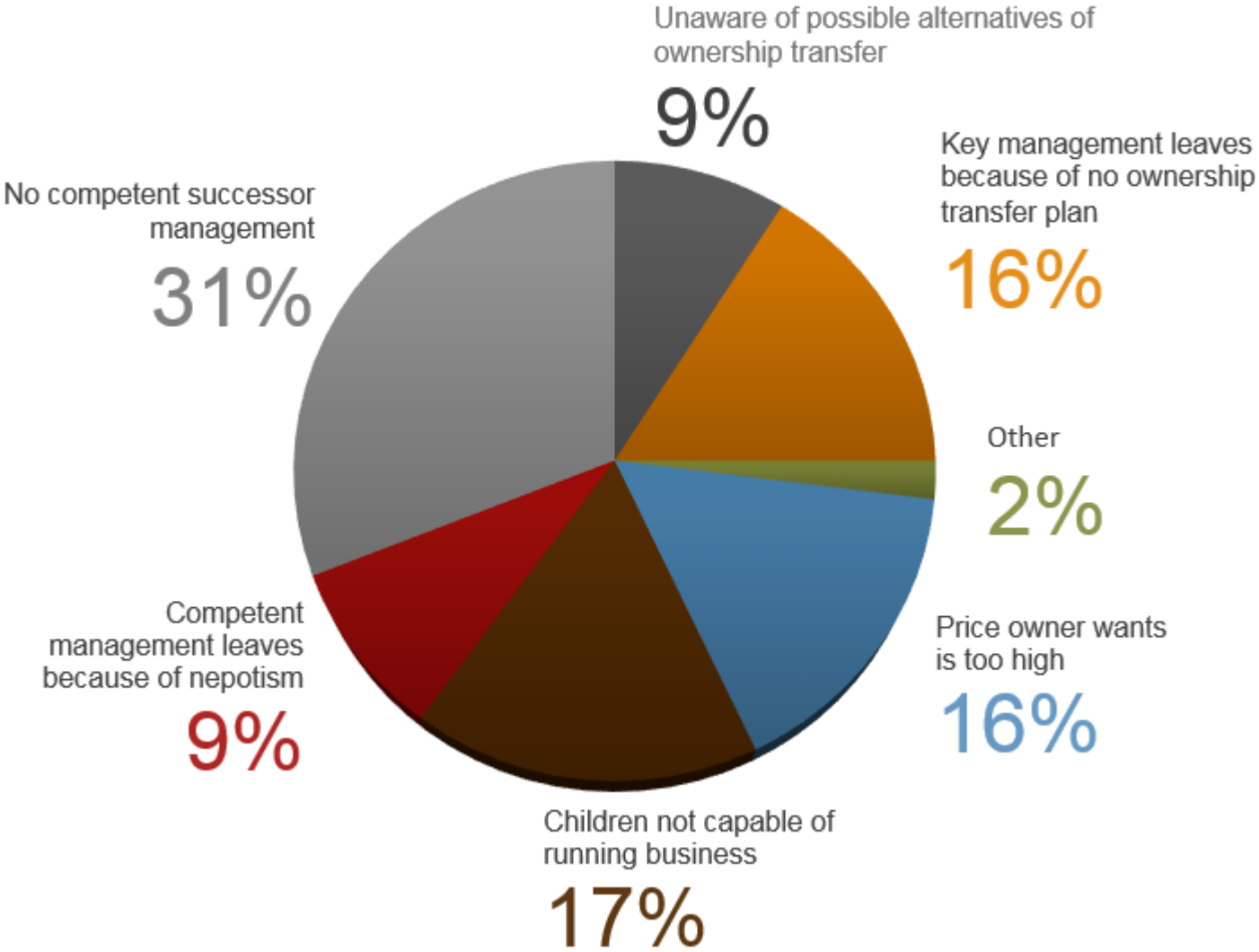
Importance of the family business

- Only a little more than 30% of family businesses survive into the second generation (even though close to 70% would like to keep their business in the family)
- Only 12% of businesses are still viable into the third generation
- By the fourth generation and beyond, only 3% of family businesses continue to exist

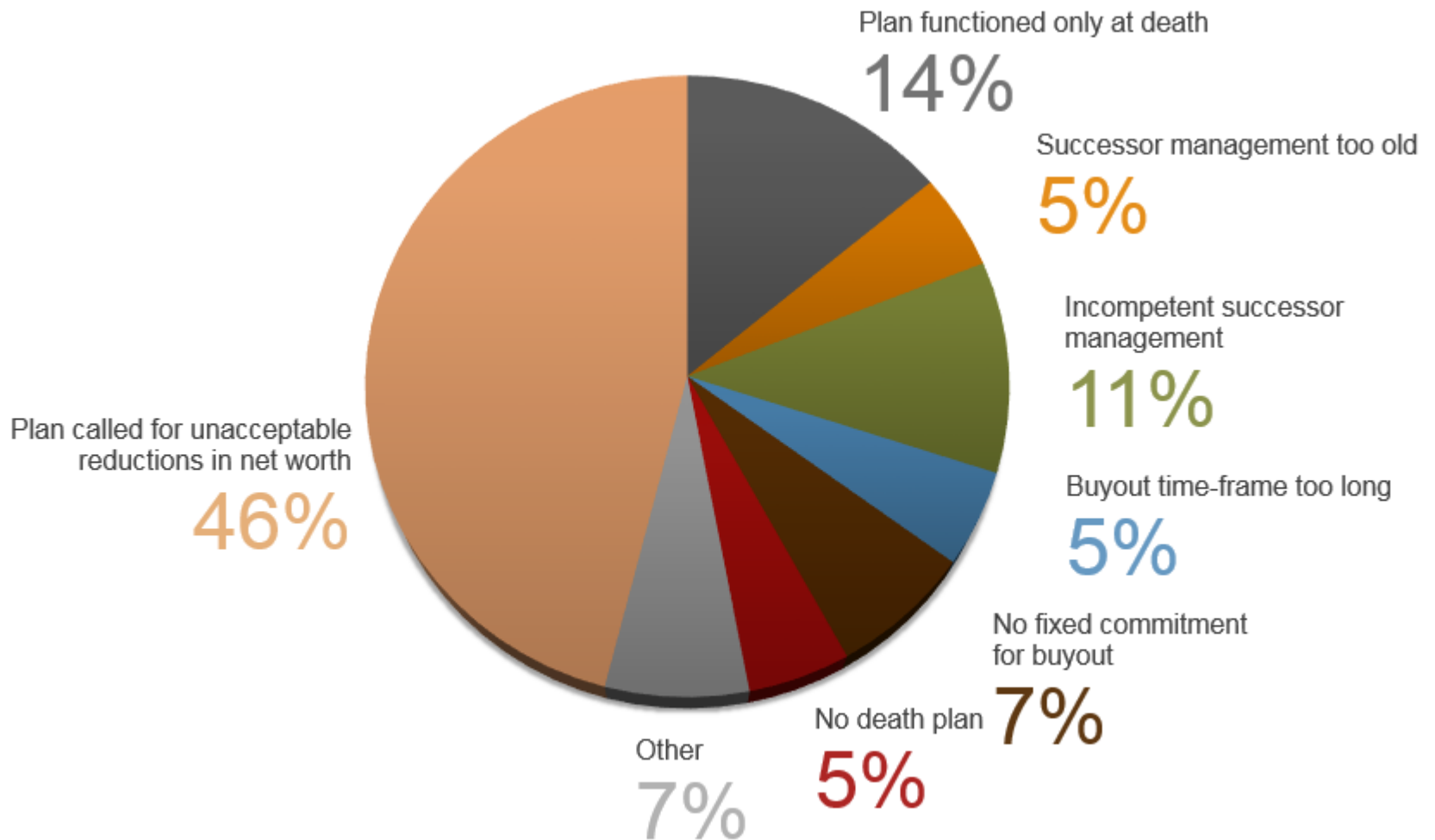
Is it for lack of planning?

- 17% of businesses expect to change hands in the next 5 years
 - 52% of those plan to keep the business in the family (down from 74% in 2015)
- 30% of the companies expect to bypass their families altogether and sell to key employees or outsiders (compared to 19% in 2015)
- The average age of the family control is 60 years old
- 61% expect in the next 5 years they will bring in an experienced professional nonfamily manager to help run the business
- 67% don't have a comprehensive succession plan in place

Most common reasons for ownership transfer plans not working

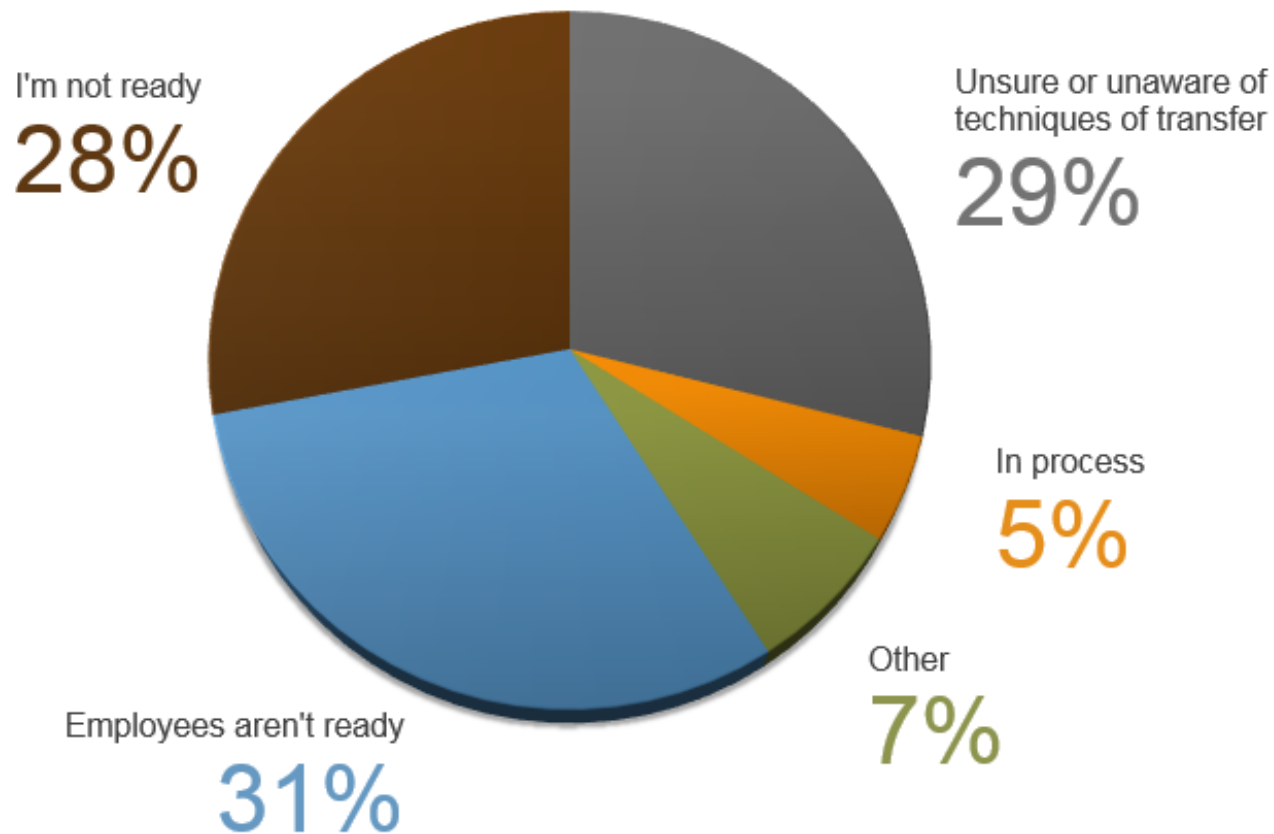


Reasons for continuity plans being unacceptable



Management succession survey

Ownership transfer plan concerns

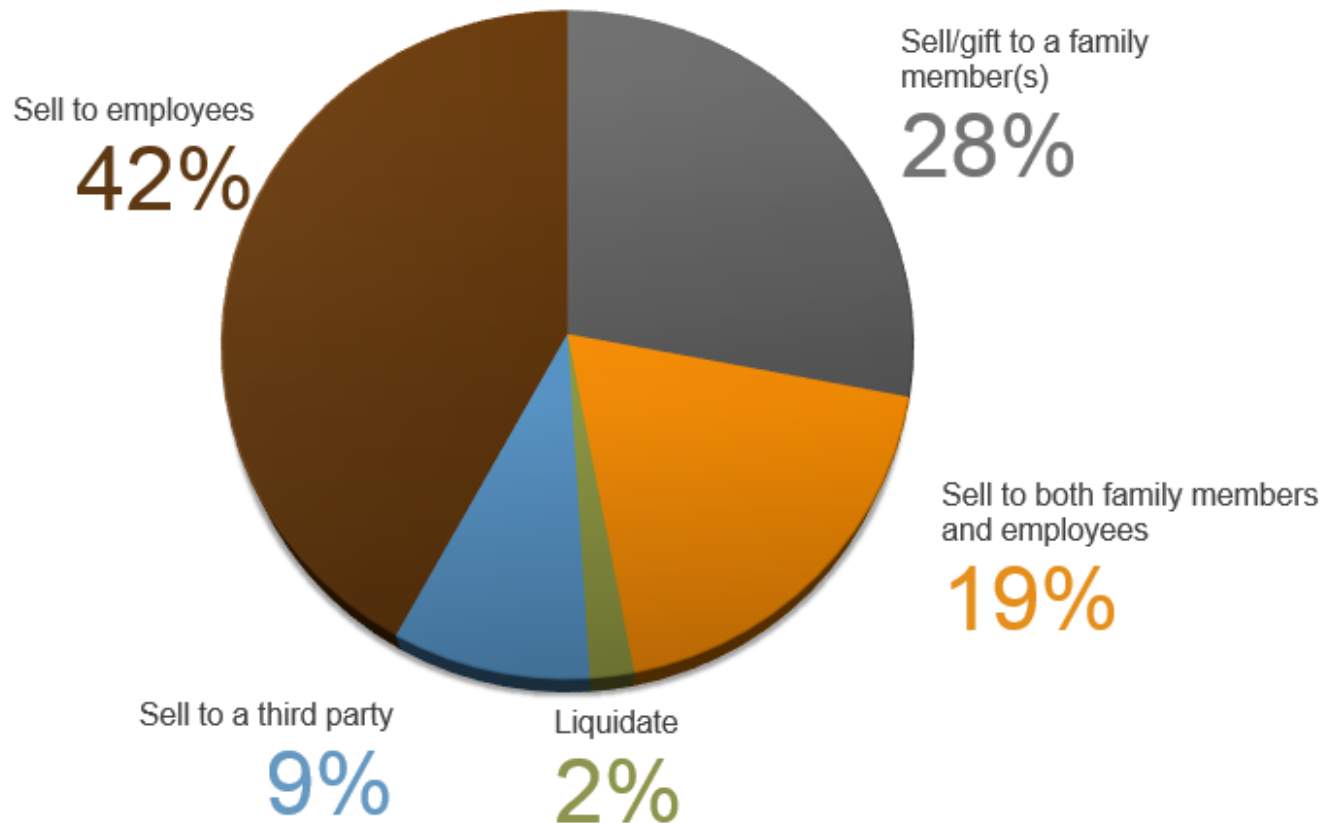


There are many ways to transfer a business:

- Sell:
 - To family members
 - To employee/management team
 - To both family and employees
 - To a third party
- Gifts to family members
- Liquidate
- ESOP

Management succession survey

Definitive ownership transfer plans



Realities of buying/selling “most” companies

- There are fewer transactions completed each year than perceived
- Most closely-held companies are sold for three to five times pretax earnings and/or a percentage of adjusted book value plus earnout
- Most transactions are “asset purchases” rather than “stock purchases”

Realities of buying/selling “most” companies

- Sale to an outsider is generally a more lucrative alternative for a seller
- “Equipment and hard assets are usually worth more to a seller than to a buyer”
- Buyers are reluctant to pay more than book value up-front – premiums are usually subject to performance

Realities of buying/selling “most” companies

- Goodwill or “blue sky” is defined by earnings
- People/organization are the most important assets
- Buyers do not make “offers sellers cannot refuse” and foreign buyers do not pay excessive premiums
- Deals need motivated buyers and sellers

Concerns and issues when selling to family

- Successor competency
- Usually little cash up front
- Generally low value
- Family issues, nepotism
- Legacy
- Better control of timing
- Discounts are valuable
- Estate planning potential
- Family unity is successful
- Family discord
- Capital gains

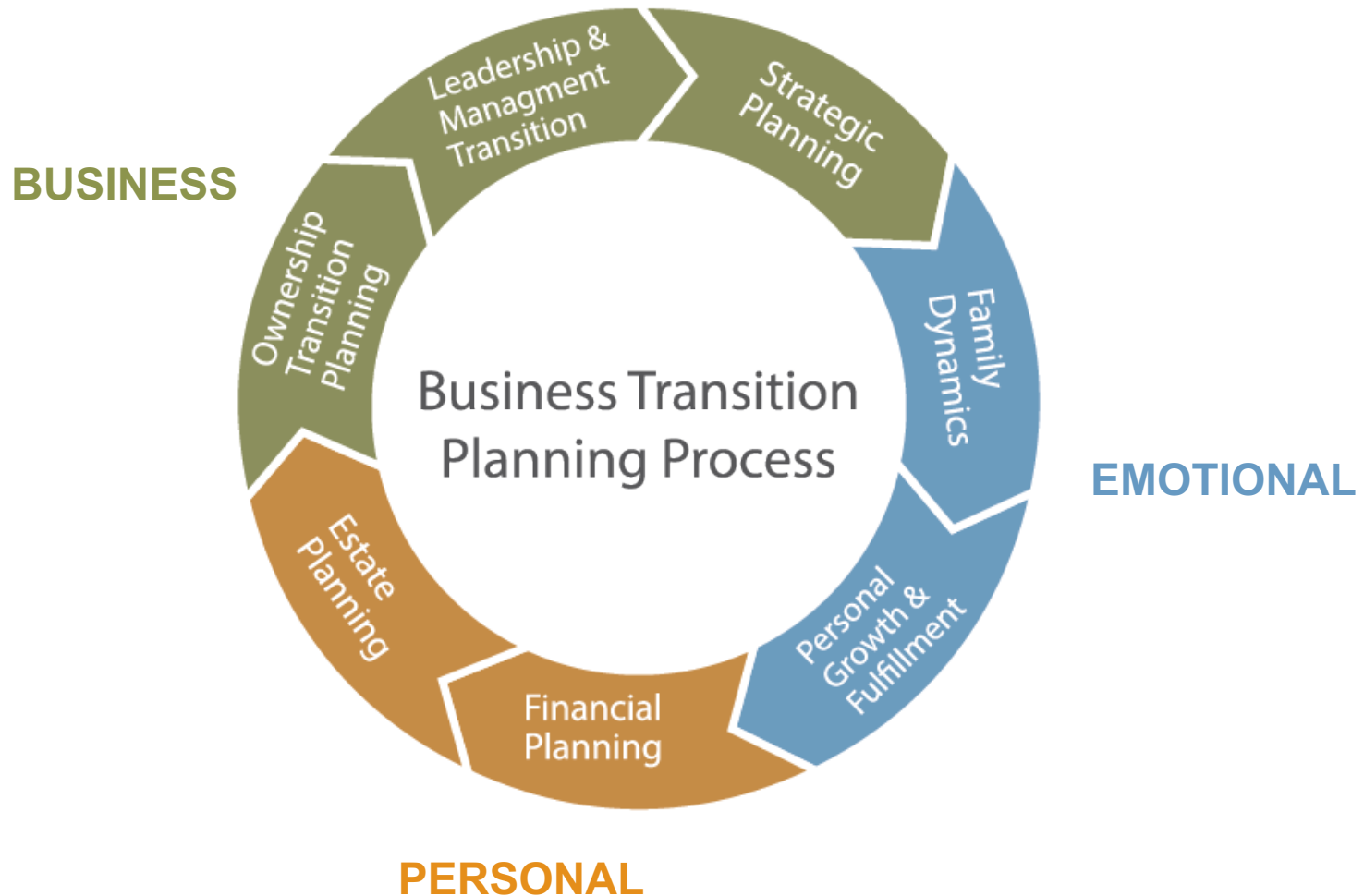
Concerns and issues selling to key management

- Usually little cash
- Low net worth of successors
- Competency issues
- Training issues
- Usually lower sales price
- Legacy is left
- Capital gains
- Retain key management
- Cash out excess assets

Concerns and issues selling to competitors

- Ready market (potentially)
- Better price
- Cash up front
- Business familiarity
- Disclosure of confidential info
- Risk of exposure in market
- Economies of scale
- Faster exiting
- Effect on employees
- No legacy
- Tax effects

Business transition planning process



Personal



Financial
Planning

Estate
Planning

Financial planning:

- Process to determine the retirement cash flow for the transitioning generation. The process includes budgeting, investment planning, and cash flow analysis. Also determines how much the transitioning generation will need to rely financially on the family business.

Estate planning:

- Process to establish “transfer tax cost” to gift, bequeath, or sell the family business ownership to the succeeding generation. Also coordinates estate planning documents with family transition plan.

Typical estate plan

- Last will and testament
- Revocable living trust
- Durable power of attorney
- Health care power of attorney (patient advocate)
- If business — buy-sell agreement

Last will and testament

Reasons for a will:

- Avoid intestacy
- Appoint personal representative
- Nominate guardian for minor children
- Transfer assets to revocable living trust

A will does not:

- Affect jointly held property
- Affect beneficiary designations
- Avoid probate

Reasons to avoid probate

- Free publicity — financial information privy to public
- Lengthy process — 9 months to several years
- Ancillary probates
- Probate costs: 3%–11%
- Family controversy — a chance for the 4th removed cousin to argue for a share

Revocable living trust

Procedure:

- Legal document
- Retitle assets — naming the trust as owner (critical to avoid probate)

Reasons to use

- Management and distribution of assets
- Protection against incapacity
- Avoids probate
- Maximize tax savings

2018 rates

- \$11,180,000 lifetime gifting/estate exemption amount
- 40% top marginal gift and estate tax rate
- \$15,000 annual exclusion
- Gifts for medical expenses and education are not considered gifts, as long as they are made directly to the institution (not to the beneficiary)

Business: ownership transition planning



Ownership Transition Planning

- Process to establish the value of the ownership interest within transitioning generation. Establish governance structure for the family business for a successful transition. A process of developing succeeding generation on “how to be an effective shareholder.” Develop a process to create a market in the family business.

Buy sell agreement

The purpose of a buy sell agreement is to ensure the following:

- Create a market for the sale of the company's stock.
- Establish a price or a valuation approach for the company's stock.
- Provide existing shareholders with certainty as to who their future partners will be.

Business: leadership management transition



Leadership &
Management
Transition

- Process to determine existing skills within the transitioning management team and develop a plan to determine skills necessary to lead the business in the future.

Family member as successor



Leadership &
Management
Transition

- Plans need to be started early
- Children should be treated fairly and equitably – not equally
- Parents are not always capable of objectively evaluating competence of children
- Do they have the necessary skills?
- Do they want the position?
- Has it been clearly stated that he/she will be the successor?
- Has the timing of the transition been determined?

Identifying gaps



Leadership &
Management
Transition

To identify the future leaders of your company, you need to know:

- What knowledge, skills, and abilities are most important
- What leadership requirements can and cannot be trained
- What the individual's strengths and areas for development are

Business: leadership management transition



Leadership &
Management
Transition

- Time to accomplish
- Partnership format
- Compensation
- Development of training program
- Given vs. earned perception
- Owner's ability to train and develop

Business: strategic planning



Strategic
Planning

- Process of gathering information and thinking about it in particular ways and reaching conclusions that become the basis for re-inventing the family business in order to grow and prosper for future generations.

Business: strategic planning



Strategic
Planning

- Since the business will be the source of cash, it is important to develop a strategic plan to assure profitability.
- Strategic planning takes the long-term vision that often exists in a business owner's head and puts it down on paper. This helps assure that a business will remain profitable and viable for years to come.

Business: strategic planning



Strategic
Planning

- Stable and motivated management team
- Operating systems that improve cash flow
- Operating profit margins
- Growth strategy
- Good and improving cash flow

Emotional

Family dynamics:

- Process which evaluates the strengths and cohesiveness of the family. The process identifies tools to strengthen the individual family members and develop the role of stewards of the family business.

Personal growth & fulfillment:

- Process which identifies the individual's current and future roles within and outside of the family business for the leaders of the family business.



What will your exit style be?

- Monarch — “Long live the king!”
- Governor — “What is next?”
- General — “I shall return....”
- Ambassador — “How can I help?”



Moderator: R. Edward Boucher



Education

- J.D., Wayne State University Law School, 1997
- B.A., Albion College, 1987

Professional & Community Involvement

- Michigan Infrastructure and Transportation Association
- Associated General Contractors of Michigan
- Washtenaw Contractors Association

Bar & Court Admissions

- State of Michigan, 1997
- U.S. District Court for Eastern and Western Districts of Michigan
- United States Supreme Court, 2005

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R. Edward Boucher is an attorney practicing in Kotz Sangster Wysocki P.C.'s Detroit office. He is a graduate of Wayne State University Law School and Albion College (B.A.). Mr. Boucher is an experienced litigator and has handled claims involving unforeseen soil conditions, defective workmanship, and delays in the construction of hospitals, casinos, and roadways. He has also represented contractors and construction industry executives in litigation concerning surety general indemnity agreements and has represented contractors before state administrative bodies, such as the Michigan Gaming Control Board and Michigan Occupational Safety and Health Administration. Mr. Boucher has represented construction project owners in land use and zoning improvement litigation, as well. Finally, Mr. Boucher has drafted and negotiated contracts for owners, construction managers and general contractors, and subcontractors.

Mr. Boucher is a frequent speaker on topics of interest to contractors and construction project owners. He has given seminars on surety bonds, delay claims, and American Institute of Architects contract forms. He is an instructor with CAMTEC and is active in the Michigan Infrastructure & Transportation Association, the Associated General Contractors of Michigan, and the Washtenaw Contractors Association.

Mr. Boucher regularly contributes articles to construction industry journals. Recent publications include Sharing the Risk of Owner Non-Payment by Using "Pay-if-Paid" Clauses; Schedule Modifications and Enforcing them Against Subcontractors; and The Municipal/Public Owner's Liability for Undisclosed Site Conditions

Presenter: Michael Lechner



Michael Lechner is a Vice President with Guy Hurley Blaser & Heuer LLC. Mike joined GHBH in 2005 following a 15-year surety company career, including ten years with Liberty Mutual Surety as Surety Manager. Mike specializes in construction and has an extensive underwriting background. During his career, he has arranged insurance and bonding for contractors of all sizes and construction specialties, from the small local family owned business to the large, national construction firm.

He is active in various associations including MITA, AGC, NASBP, MCA, and WCA. Mike holds a B.S. degree in Finance from Ferris State University, and did graduate studies at Walsh College of Business. In January of 2009, he became an agency shareholder.

Education

- BS, Finance, Ferris State University
- Walsh College of Business, Graduate Studies

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Presenter: Tom Doyle



Tom Doyle is a CPA and Partner in Plante Moran's Audit practice. As a leader in Plante Moran's construction practice, Tom brings more than 35 years of experience providing tax, audit, and consulting services to general, heavy/highway, and specialty trade contractors. Plante Moran's construction practice includes more than 100 professionals dedicated to providing insightful guidance and industry thought leadership to the firm's more than 400 construction clients. Tom spends 100 percent of his time working with and advising construction clients.

Tom is a former vice chairman of the board of directors for the Construction Association of Michigan and is a member of the CFMA, MITA, DACA, and the AGC. He is a frequent industry speaker, trainer, and author, providing insight on current construction topics and trends. Tom earned a B.B.A. in accountancy from Western Michigan University.

Education

- BBA in Accountancy, Western Michigan University

Professional Affiliations

- American Institute of Certified Public Accountants
- Michigan Association of Certified Public Accountants
- Construction Association of Michigan, former vice chairman of the board of directors
- Associated General Contractors
- Construction Financial Management Association
- Michigan Infrastructure and Transportation Association

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Presenter: James Y. Stewart



Jim Stewart utilizes a diverse skill set to creatively solve problems for his clients. He focuses his practice on general corporate and business law, formation of corporations and joint ventures, mergers and acquisitions, contracts, shareholder agreements, succession planning, commercial law and real estate. His clients include individuals, closely held businesses, and multi-national corporations. Jim has a special focus on counseling owners and management of closely held companies.

Jim has spent over 30 years:

- Consulting with clients on business management, corporate governance, joint ventures, asset and stock purchases and sales.
- Representing landlords and tenants in the negotiation of commercial leases, handling the purchase and/or sale of commercial and residential real estate, and assisting clients with environmental issues.
- In yacht financing, vessel documentation, and the perfection and collection of maritime liens, including preferred ship mortgages.

Education

- J.D., *cum laude*, Wayne State University, 1981
- B.B.A., *with distinction*, University of Michigan, 1978

Bar & Court Admissions

- State of Michigan, 1981
- U.S. District Court , Eastern District of Michigan, 1981

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He serves as general counsel to the Michigan Boating Industries Association and the National Marine Lenders Association.