

Forward-Looking Planning for Business Owners

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Marguerite Weese

Good afternoon, and thank you for joining today's webinar: Forward Looking Planning for Business Owners for Wilmington Trust, a member of the M&T Bank family. I'm Margreet Weese Chief Wealth Strategist, and I'm joined by my colleague Blair Talty, Head of our Family Office.

Today's conversation is all about helping the business owner think through some key decisions that come up at year end. To me, year end is synonymous with a time of reflection. Thinking about what you've been able to accomplish in the prior year and starting to think about what you want to accomplish in the upcoming year.

But today's webinar will challenge you to also think about what you want to be doing in the upcoming years in the future. As we take you through our checklist, we want to impress upon you to make sure you're thinking about goals not only for your business, but also for your personal plan.

Too often we see clients silo their thinking. Don't worry, we're here to help you.

So with it, let's get into it. Blair and I will be walking you through five general areas to be thinking about at this year end. First, build, grow, and manage your business. Second, engage in business income tax planning. Third, ensure operational continuity. Fourth, consider your succession plans and Fifth, be intentional about your future exit plan.

Blair, when you and I were planning the webinar, the first category that came to mind for both of us was this holistic review of someone's business. Can you walk us through what that means?

Blair Talty

Sure Marguerite thank you and good afternoon everyone. So as Marguerite mentioned, the first area, primary area of focus for business owners is always the business itself. If you don't take care of the business and the business lags or fails, then a lot of the other issues we're gonna be talking about may not be as relevant. So, when we're talking about the business, we're looking at what's the plan, is your business still progressing in the right direction to meet your goals?

And is your business structure aligned with your objectives? So, we have a few items up here on the screen, but, but a few other areas that are not listed there would be you're looking at your business plan, you're looking at your business goal, and, and we love, I love the acronym SMART.

You really want to take a look at are those goals specific, measurable, achievable, relevant, and time bound. And if you can answer yes to those questions, then that's a good start. And if they're not, then it's time to, to maybe relook at things and adjust.

A second area that is important for business owners to make sure that they're managing their business and growing it is continually looking at your financials to make sure that as you're moving forward, you're hitting your profitability goals. Again, if you're not, then the business may not be primed for success, so you wanna look at why you're not meeting those objectives.

Along with that, it's a best practice to maintain relationships in the banking world and to also ensure that you have sound accounting in place. This way you're well positioned should any kind of emergency hit or unforeseen events, you'll be positioned to get capital, whether that's through reserves or through credit. And so a quick example of this, we had a client that was a client of ours prior to the pandemic about five, five and a half years ago, and a business owner.

And things were tough as it was for many business owners. Supply chain was not great. There were shutdowns, there was, there was not sure where customers were gonna come from or how you're gonna get the product for the customer. But fortunately the client had great lines of credit in place and also had reserves so that the business owner was able to weather that storm and when things started easing up over the next year or so, was really well positioned to kind of keep moving forward.

Marguerite Weese

Blair, can I actually, I love that anecdote. I wanna interject really quickly. I kind of promised at the beginning of the webinar we would talk about making sure that business owners think about their business planning and their personal planning together. I think here's a perfect area to emphasize why it can be really helpful to have one meeting with your advisors both your, your banking advisor as well as your wealth advisor at the table for at least one meeting a year. So when you get to that scenario, like you were just talking about, and you're looking for creative ways to solve a problem such as access to capital, all of your advisors are already on the same page working with the same information and better able to help you problem solve immediately.

Blair Talty

Yeah, absolutely, Margaritte, great point. And I'll take it even a step further, it's always important, not just a year end but throughout the year to continually review all areas of your business operations, and what you really want to make sure is and we get this from a lot of the businesses we work with that are successful, is that you want to make sure you have strong leadership team. You want to make sure you have a strong team that's kind of implementing all of the work day to day. And you also want to make sure there's a culture in place that not only promotes but also rewards all manner of positive aspects such as collaboration or productivity efficiency, innovation, whatever's important for your business to succeed, you wanna make sure that you're doing everything you can to support that culture and allow for that.

Marguerite Weese

Yeah, I love that. You know what I think really drew us to that first area to focus on was just the evergreen nature of that advice of the holistic business review because without that foundational piece, the, the tactical how am I responding to ever changing tax laws can become slightly less important if the foundation of your house is in isn't sturdy and built. But of course it is the year end tax planning and forward looking webinar, so let's think about what are the next income tax planning reactions that business owners should be thinking about here at year end. Would you walk us through kind of what our key changes of what business owners should be thinking about right now?

Blair Talty

Sure, absolutely. So we'll, we'll go through a handful of provisions and we'll show them here on the screen, very important to stress before we even get into this and we'll probably stress it a few more times, we don't know what your particular business situation is or your personal situation is. So it's critical to have these conversations as well with your accountant and any other advisors on your team just to make sure that you're getting the best advice that's relevant for you. So as many of you on the call know, either in detail or at least in the abstract, in July 2025, the OBBBA, the One Big Beautiful Bill Act was signed into law and there are a number of important updates for business owners. Many of which are at least conceptually designed to promote not only growth but also innovation in the business. So we see them listed here and I'll touch on each one.

The first one we have is the 20% deduction for business income that remains in place under section 199A. This is for pass through entities such as a partnership or an S corporation and it now is permanent in the tax code. So business owners should continue reviewing their entity classification to make sure that this benefit is maximized. Second, I'll jump down to the fourth bullet point. It's the gain exclusion rules for qualified small business stock or QSPS and these have been in place and they'll continue in place, but they're actually enhanced for stock issued after July for 20 2025. Three ways that they're enhanced is, the exclusion amount has been up, the upper limit is now 15 million of a potential excludable capital gain from the sale of a C Corp stock. That had previously been \$10 million under the prior law, and then the holding period which was previously five years moving forward if you hold the stock for at least three years, you can take a 50% exclusion on the gain, and then if it's up to four years a holding period or or for four years you can exclude 75% and then what the current law is remains that if you have a holding period of five years, you can exclude a 100% of the gain again up to that 15 million cap. And then another aspect is in terms of what qualifies as a qualified small business.

Previously it was aggregate gross assets of the corporation, up to 50 million. That limit has been raised to 75 million. And so if you're thinking about a future sale it's worth reviewing again your entity type. In this case it's kind of the reverse of the section 199A and consider whether or not converting to a C corporation would allow you to take advantage of this exclusion rule.

Marguerite Weese

So I love everything you just said and it was a lot. I think one of the items that is really important to just emphasize before you keep going, Blair, is that these tax changes have now made it

beneficial to either be a C corporation or a pass through entity. And so I think it's a phenomenal opportunity for a business owner to take a moment with their advisors and think about whether or not their entity choice still makes sense for not only what they have going on currently in their business, what their growth plans are, and then ultimately what their exit plans are because each entity structure has its own advantages depending on what the business owner is thinking of, of moving towards. And so, I think this is a perfect example of where you're not just thinking about tactical right now, but really looking ahead.

Blair Talty

Yeah, absolutely, Marguerite. Thank you. Again, the the broader point is no one law or no one rule or no one best practice is observed in or should be observed in the abstract, right?

And so if I'm a business owner, I need to be talking to my advisors to make sure I say, hey, I heard about this, this, this new law, this extended law that it's helpful from a C corp. Let's change to that. I maybe giving something up on the on the other side if I didn't just stay at what I was in.

So it's always worth taking a look at all of the aspects of any kind of change or staying the same. So quickly getting through the other few that are listed here. 100% bonus depreciation returns. So, that is really potentially a game changer for some businesses.

Because, anything that is acquired I believe it's after January 19, 2025, any property is qualified can be fully deducted in the year to put into service. Previously you had to kind of stretch it out and it was the delayed impact for the business owner. And so that's positive. And then also research and experimental expenses or development expenses, they know no longer need to be spread over time. They can be deducted immediately as well. And the final one here is the deduction for business interest.

The way that's calculated, there's a change to that that has allowed the possibility and in some cases probability of a larger deduction for that business interest. So those are the tax updates. Again, please always work with your accountant and other advisors to make sure that any benefits are applicable in your case, and if there's any planning to be done to make sure that it's customized for what your situation is. But with that, we've explored good personal or good business hygiene. We've explored some of the tax updates. Now we're gonna shift gears a bit and shift it back over to Marguerite to talk about operational continuity of the business, and the benefits thereof and the importance of that.

Marguerite Weese

Thanks Blair. I think operational continuity and really spending the time thinking about it for your business is just so, so critical. Part of what we talk about is the intentional planning, but I think we need to make sure that we're spending the time talking about what happens when, when life doesn't go as planned.

This is where that operational continuity plan in place now becomes critically important because we all want to believe that we are in control of the timeline of when the exit ramp from running our business, when we're allowed to get off at that exit, but life has a funny way of, of making different plans for us.

And we know that accidents or health issues can rise suddenly and really derail the plan. We had a client a few years ago where, and it really stuck with me and I try to tell the story.

Young guy in really in growth mode running several businesses and up having a skiing accident, you know, was in the hospital and it became such an ah-ha moment that his business partners didn't know where key contracts were held. It really showed how much one individual was many different skills in the business and luckily for him and his business partners and his family, given the severity of the accident his recovery was pretty quick. But it was a really good reminder that, you know, life doesn't hold how you think and so making sure that you look around your management table, your leadership table and saying, who is, who is key, if something happens to that individual, you know, how are we going to replace them? What skills do we need? Do we have that in the bench? Where would we go, to get them because it's not just necessarily a lack of income in that year, but it could also mean a decrease in the value of the business going forward if you don't have a plan.

Blair Talty

Yeah, if I can cut in quickly Marguerite just to reinforce and point out when we talk about operational continuity, that may involve family members, maybe non family members, it maybe owners or or those who don't have an ownership interest in the company.

So it's really important to look at both the operational, the operations as well as ownership because they're not necessarily the same and we meet a lot of clients and work with a lot of clients who say, No no, we're great, we have a buy sell agreement in place, we know what we're gonna do or we're gonna pass it through our company through the family.

But that is not necessarily the same as we've got three or four key members of the operations team that are not that they don't have an ownership interest, they're not part of the family. And if something were to happen to that operations team or key members, it's gonna be a real struggle for the business.

Marguerite Weese

I love that. Thank you for emphasizing that because you're right. I think it can be difficult to separate the two when you're, when you're planning when people wear different hats owner ownership or management. I think it's key when you're looking at that management to say, ok, if it's a sudden loss of an individual, do we need key man insurance to help us fulfill that individual with a new hire.

If it's a, to, to Blair's point as we think about family businesses in particular, if it's an individual that's not a family member, is it that we need employment contracts in place to help secure and retain top talent that are crucial to the business going forward.

But I do think because we have so many listeners who are business owners, as well as family business owners that you, you do kind of separate them the management and the ownership, and think about, ok, so I was talking about the management continuity critically important.

Let's talk about that ownership piece. So Blair, you know, our, our our fourth topic is around that business succession plan and really thinking about it from an ownership perspective. Will you walk us through what some of the options are?

Blair Talty

Sure, absolutely. And a lot of times we meet with owners or we meet with advisors and then we're talking about some, some common clients and there is no future planner. It's uncertain, right? As opposed to clients who come in and say yeah well I'm gonna pass to the next generation or me and my partners have, we already have the plan in place.

A lot of business owners, they're worried about working on their business and building the business and being successful in that and they don't necessarily have a real great idea of what's going to go on the future. So what we found helpful and I think a lot of the advisors that are joining today probably have also found helpful is to have a conversation, right? Whether it's the business owner kind of asking themselves the question or the advisor is working with business owner and asking the questions that are more of an open ended nature, right? They're not designed to say A or B, but just to try to figure out, ok, what's the path we're going to be on and move down. And so some of those questions may be what might the business look like when you're no longer in control, right? It's gonna be owned by the next generation? Are you contemplating having the partners or your employees having an interest in the business or the third party potentially? Timing of that, another question is, when are you looking for this to happen? When do you expect this to happen?

It's going to happen at some point in time, right? The reality is, nobody's gonna be able to, no individual's gonna be able to operate and own a business indefinitely. So whether it's retirement or death or some other circumstances, at some point the owner is not going to be in their current state and position.

And so what's the timing of that next chapter look like? And then also what does the business owner see as their role when they're not working in the business? Do they see themselves still kind of involved as a consultant? Is it something where it's passed in the family and they're still gonna have some kind of emeritus role? Those are questions that if you start asking owners those, you're gonna learn a lot more about, ok, we're gonna hone in on one or two paths instead of having the full gamut of options. And so another question we like to talk to owners about is when you transition out of the business, whatever that path maybe, what's your primary driver? Do you want to maximize the financial interest and monetize that business and get you know as

much economic benefit as you can out of that? Or are you willing to give a little bit of that up and ensure that the business is successful moving forward in whether it's for the community or whether it's for the family or or just your legacy of, hey, I built this business and even though i'm selling it and I'm going into retirement or a different phase of my life, I don't want to look back look back in five years and see it it failing, right?

So, asking those questions and then having the answers as they're fleshed out, it's really gonna help guide to what we're gonna talk about now as the different options that you may want to put in front of the clients and and and walk them down that path. So looking at the first one transitioning to families.

There's certainly considerations along the way, but if you have family members who are willing and able and well positioned to take over the business, and that's what the plan is, then it just typically comes down to timing, formalities, maybe some tax efficiency, and making sure everything's buttoned up from that perspective.

One note on this is, and I'm sure we've all, all the advisors have been in this position one time or another, talk to a business owner, and they instinctively say, well, this is a family business, we're gonna pass it to the next generation. And then as you further talk to them, they reveal that they've got three children. One is in medical school. And another is, you know, going down a professor or a teaching path and the third one is in something similarly not related to running a business. Kind of hard to understand how it's gonna pass down to the next generation if they're all doing different things and that's a good thing, but we've had to refocus some business owners and some of our clients on the question of, ok, next generation sounds great, but who is that next generation? Cause we don't, we don't really see that and that's usually an ah-ha moment.

Second area is transitioning the partners. This can be voluntary, that can be involuntary, whether it's retirement is the voluntary path. Death or disability is involuntary. Whatever the case may be or whatever the agreement is, there should be a buy sell agreement in place and it delineates the rights and responsibilities of all the partners. It delineates the certain triggers, how are we going to value the company, how are we going to ensure liquidity for the sale, is it timing for the payout? You know, what's triggering this? Is there an automatic time period which is not as common or is it retirement or is it just upon death or disability then we're going to have some kind of trigger to sell to the remaining partners?

And, one example of this is, we have a buy sell agreement that says, ok, if you die or become disabled, then it's an automatic buyout. But then we have the flip side, whereas if it's a retirement or a resignation and you're looking to sell to a third party, that's not automatic. We have, we the remaining partners have the right of first refusal, and so if you have a buyer, let's say for \$5 million for your interest, we have the the right to match that and not be forced to to go into business with somebody that we didn't have a choosing of that, of that individual.

Marguerite Weese

I want to jump in because I really love that point and this is one of those areas again where you really want to think about how the business planning documents overlap with personal planning documents. And here I think it's really important to think it's not just about your documents, how your business planning documents and your personal planning documents overlap, but also your business partners. There's a story I really like to tell because again I just think it's so powerful by illustration where, the partner's interest went through, I mean the buy sell was fantastic, but the partner's interest went through their will and it went to the business owner's children. The children were minors and so in fact, it was then, you know, who's in control? It was actually the business partner's ex wife who had a, who had a bone to pick in the the situation and it caused the business to go into litigation for a year.

And so I think it becomes again that really important, let's take a holistic view. Let's have the conversations about, this is not a check the box exercise. I have a buy sell agreement, let's talk about what the flow actually is.

And if you want to be in business with your business owners errors, and if not, then, you know, what are your your choices and make sure that your buy sell agreement says that.

Blair Talty

Yeah, absolutely, Marguerite. Thanks. Couldn't agree more with you more than that. Another example, and this is something that comes up often for myself and our team, is you gotta relook and take a fresh look at the buy sell agreement and all the other pieces that play in. And the example is you've got buy sell agreement, you have life insurance that's purchased on the lives of the partners, you fund that buyout if and when one of the partners passes away, and at the time that it was entered into the life insurance provisions are whatever they are, a couple million dollars. And then down the line ten years later, the business has been wildly successful and each owner's interest is now worth, you know a multiple huge multiple ten times the amount of life insurances in place. If you're not staying on top of that, then you're not gonna, you're not gonna get the way you want to be, right? You're gonna have insufficient fund to pay out, that's gonna cause problems whether or not that requires the business to be sold to buy out the interest or whether some other less desirable event happens because of that.

You really just need to stay on top of and continue to look at what you have in place with your plan. And what I would say in ending this part of the transition to partners option is it it really doesn't matter. I mean there are certainly best practices, but the terms of the buy sell aren't as important as making sure that all the partners understand what the terms are, that they're current and fresh with what the intentions are, and that there's clarity. Because if not, then there's going to be a problem down the road. So, that is the end of transition to partners. I want to talk quickly about third party sale.

This could be to employees from ESOP, this could be to private equity or it could be to some strategic buyer of the business. And what we see come up very often is the compensation question, right? How, not just how much but how's it structured?

Right, so it could be a lump sum, it could be something of a consult, you know, you, you get a lump sum and then also you're being retained as a consultant or or somehow employed for a few years, some period of time to help the transition. There could also be the element that the seller is retaining an interest or buying back an interest of, let's say the private equity firm acquiring the business, so that I I'm no longer known of the business, but I own a small piece of private equity firm or the private equities company that bought the selling entity.

And then also there could be some kind of target based compensation, so if we're continuing, if we, the new business is continuing to hit certain targets after a year or two years, three years, whatever the case maybe, then there'll be an additional buyout. All of which are intended to, if appropriate, keep the selling owner and ownership team engaged enough to consent, you know, to ensure that the business is going to succeed moving forward.

We have clients in one in particular I work with recently worked with recently had three of those four elements, and so it was a full compensation package.

So that that's what we have with third party sales and the different ways you can, you can structure a business succession plan. Obviously it doesn't cover everything but continue to have that conversation with your clients and your advisors.

Now, this leads to the common the common question of, ok, what do I do now, right? Well, what's after the sale of the business after I transition? So I'm gonna segue over to margarite, to talk a little bit about future exit planning, right? What happens after the sale of the business or as you're prepping the sale of the business? So Marguerite, do you wanna add some color to that?

Marguerite Weese

Yeah, absolutely. Thanks. This is the area I'm probably the most passionate about. I I think first and foremost, you know, all of the options that Blair just laid out, fantastically, they take time to really think through to to start with the idea of what you, how you want to exit, what that structure looks like. And so, you know, I think we harp on on our business owner clients saying let's start these conversations at least three to five years ahead of any intended transition or or exit because it takes time to, to think through the structure to start putting it in place. If you're looking a, you know, from the a numbers perspective, what do you need out of the business? You know, looking at what your lifestyle costs, you're gonna want to start running some cash flow plans, trying to understand what your lifestyle costs, what you're going to do post sale or transition, what value do you need out of, from the business, could you reasonably get that? If not, what do you need to do and what could you do to boost the value of your business to get it to a number or do you need to look at other ways to, to supplement that income kind of post exit?

And so, you know, if you're fortunate enough also to be in a position where you have more than enough and you're looking at wealth transfer strategies and being able to benefit the next

generation, to be tax efficient, you're gonna want to search strategies that, that can take time that can take a couple of years with gifting to do so in a tax efficient manner.

And so, and if you think about the idea that once you start the actual transition, whether it's a sale to a partner or sale to a third party, I think it can be hard for business owners to conceptualize how much of their time that sale of transition is actually going to take place. And so any of the personal planning, you really want to be spending time way in advance thinking about because while you're doing all this transition planning, you're also still running your business and keeping the value and and potentially still growing it. And there's only so much time and so you know if from this last section if there's kind of a one key takeaway it's it's that.

Start thinking about that personal planning, the cash flow planning, the strategies you want to put into place, way in advance of your intended exit because you also might land in a situation where you have an offer on the table that you can't refuse, but now you're behind the eight ball because you haven't thought of what's next.

And I think here, it's another again kind of that broken record of have your, your advisors are around the table so that you can look at your exit plan from various angles, whether it's your accountant, your attorney, your strategist, your your wealth planner, your investment advisor, to really start saying, ok, what is it that you need to do to to get that exit plan your desired location in into place?

Blair Talty

Yeah, Marguerite, we've talked about this, how a business owner arriving at an exit plan, it's analogous to a GPS on a trip, so you discernment, you you take a look at everything and you determine what your desired destination is. But then as you, you look deeper, you see and you choose from different paths along the way, right? Are you gonna go the highway or are you gonna, are you gonna take the train or the plane or drive? You know, what's that journey look like? And there's many options there, but you know, you know where the GPS has taken you ultimately where you're gonna end up, it's just a matter of filling in and saying, ok, how are we gonna get there?

Marguerite Weese

Yeah, I love that. Thanks for bringing that up that's probably one of my favorite analogies for this section. The other piece that I I really wanna make sure as we wrap up here is that business centers thinking about not just what's happening with with the business and that become comes really important. What do you want to see, but also the business owner themselves, what's the next chapter for that individual? I think there's crazy statistics out there about how business owners get cold feet at the last minute because they don't know what's next. There's a loss of identity, a loss of a pattern in life. They haven't spent the time saying, what, what do I wanna do? What's next for me?

Do I want to be mentoring? Do I want to be on a board? And really thinking about post post exit and kind of understanding, is it a routine that I would I would be losing that I I need to fulfill in

some other way? I do think us as advisors who have spent so much time with our clients are in a great position to have those conversations with business owners because we see what energizes them. Is it being creative? Is it giving back? Is it mentoring? To help figure out kind of what's that next chapter and I think that plays into the role of all of the holistic planning that we do.

Blair Talty

Absolutely. Anything else on that Marguerite? All done?

Marguerite Weese

All done.

Blair Talty

Super. Well, that brings us to the end here and so I just wanted to thank everyone so much for joining us today and spending some time. Hope that this conversation has been helpful and that has provided you with some valuable ideas as you think both about your business or your client's business and also some personal planning heading into the year end.

Critical to take time now to reflect and plan, to help ensure that not only your goals are aligned but also strategy that's working for you, right? So whether it's today or down the road, it's critical you work with your advisors and make sure that you're looking at the full picture and having maximum impact on your plan. So, if you would like to revisit today's content, or explore related topics the last two weeks we've had similar, but different segment type of presentations, Putting Your Financial House in Order and then last week was Maximizing Outcomes for Complex Wealth Plans, they're available at [Wilmingtontrust.com](https://www.wilmingtontrust.com). And as always, if you'd like to continue the conversation, please feel and I encourage you to reach out to your banking relationship manager and or your wealth advisor. And of course you're always welcome to connect with us, our team through the site. So thanks again and all the best for, to all of you for the end of the year and into 2026. Take care.

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