
Book Review: AN ESTATE PLANNER'S GUIDE TO BUY-SELL AGREEMENTS FOR THE CLOSELY HELD BUSINESS, by Louis A. Mezzullo, 2nd Ed.

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AN ESTATE PLANNER'S GUIDE TO BUY-SELL AGREEMENTS FOR THE CLOSELY HELD BUSINESS, by Louis A. Mezzullo, is a great book for the practicing tax attorney. Maybe this book is targeted more to lawyers who practice on Main Street rather than Wall Street. Yet, the truth is that closely held businesses come in all shapes and sizes, and this is a topic none of us should ignore. The Bancroft family newspaper enterprise and Rupert Murdoch's designs on their prized WALL STREET JOURNAL is an example of just how vaunted a closely held business can become.

As used here, a buy-sell agreement is an agreement by the owners of a closely held business to purchase and sell interests in the business, at a pre-defined price, when certain future events occur, such as the death or disability of an owner.

Same Bed, Different Dreams

A popular ancient Chinese proverb wisely states, "same bed, different dreams." Despite common circumstances and similar or even identical experiences, aspirations can vary

markedly. In this context, although owners may work together to build a business, different parties often have differing objectives.

This issue can be exacerbated when new parties come along as a result of unexpected occurrences, such as an offer to purchase an owner's interest by an outside party. AN ESTATE PLANNER'S GUIDE TO BUY-SELL AGREEMENTS FOR THE CLOSELY HELD BUSINESS starts off by describing the cast of characters and their possible objectives. These may include the deceased owner's estate, the business entity, or the remaining owners.

The book discusses how a well-drafted buy-sell agreement can provide greater certainty and decrease the likelihood of disputes. A buy-sell agreement may also obviate common valuation problems by setting a pre-determined method of calculating the purchase price for each owner's interest in the entity.

The book also does a good job walking the reader through potential minefields. For example, practitioners should be aware of potential alternative minimum tax (AMT)

problems, which may apply if the proceeds of a life insurance policy are paid to a C corporation. The book presents sensible solutions to help obviate the problems stemming from the AMT.

In addition to describing objectives and considerations, the book also suggests provisions to include in a buy-sell agreement. This is a kind of multiple-choice cookbook, and works well. These provisions are very helpful and include suggestions for defining the triggering events under the buy-sell agreement, acceptable methods for setting the purchase price and possible payment terms. While more experienced lawyers may not need such suggestions, many practitioners would be well-served by looking at these suggestions prior to drafting a buy-sell agreement. Even for old hands, these are useful checklists.

Moreover, the appendices are a gold mine. They contain a sample buy-sell agreement for a C corporation, a sample promissory note, a sample buy-sell agreement for an S corporation, and examples of buy-sell

provisions to be included in an LLC's operating agreement. These samples can also be found in Word document and PDF file formats on the CD-ROM, which is included with the book.

Conclusion

A treasure trove of information, AN ESTATE PLANNER'S GUIDE TO BUY-SELL AGREEMENTS FOR THE CLOSELY HELD BUSINESS is an excellent primer on the use of buy-sell agreements and other alternatives for business succession planning. In fact, lawyers who are *not* estate planners should not be put off by the title. This guide really should appeal to a much much broader audience, and anyone who advises closely held businesses should own a copy of this valuable resource. Published by the ABA Real Property, Probate and Trust Law Section, AN ESTATE PLANNER'S GUIDE TO BUY-SELL AGREEMENTS FOR THE CLOSELY HELD BUSINESS can be purchased for \$139.95 by calling the ABA at (800) 285-2221 or on the Web at www.abanet.org/abastore.