

# Rosen Seymour Shapss Martin & Company LLP

*Certified Public Accountants & Profitability Consultants*

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## LIFELINES BLAST

### Greetings!

*Welcome to the Fiduciary Services Group's Lifelines Blast!* (a publication of Rosen Seymour Shapss Martin & Company). Here is where you will receive periodic updates on all your trust and estate needs.

We welcome your questions or comments about topics discussed or related ones. Please feel free to contact us at 212-303-1012 or e-mail us at [awillinger@rssmcpa.com](mailto:awillinger@rssmcpa.com) and let us know how we can be of assistance.

Sincerely,

Alan M. Willinger, CPA, JD  
Partner-in-Charge of Fiduciary Services

## Succession Planning for Family Businesses

Succession planning in family businesses is an area of growing importance. So infrequently is it done successfully, if done at all, that barely 30 percent of family businesses survive into the second generation.

Many of the problems encountered in family succession planning are generally human in nature and generally revolve around relationships, individual attitudes and experiences, family culture and the aspirations of the family members involved. This makes it unlikely that any single approach will work in all situations. Accordingly, any family succession planning must first begin with an evaluation process to determine many factors including identification of the desired attributes for a successor, family members desire to participate in the family business and establishing the roles and needs of each participant to the plan. The timing and manner of any handover needs to be determined and ownership and inheritance

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issues need to be addressed.

Once the evaluation process is completed the techniques of giving it away or passing it along become more specialized. Some techniques that may be appropriate are:

- Grantor Retained Annuity Trusts (GRATs)
- Family Limited Partnerships (FLPs)
- Liquidity strategies such as redemptions and buy/sell agreements
- Limited liability companies (LLCs)

Understanding the estate and gift tax implications of each of these techniques, including valuation issues and available discounts, is essential. Use of these techniques can allow the patriarch to maintain control and derive income from the entity, while reducing the value of their estate substantially.

A comprehensive checklist of relationships, factors and processes should be identified in any successful succession plan. The issues facing each family business succession are unique and each will need its own tailored approach. A successful plan can allow the business to survive one or more generations into the future.

## **International Property Holding**

Foreign citizens often find it desirable to own real estate within the United States. However, doing so subjects them to United States estate taxes upon their death. While a tax treaty may mitigate the effect of United States estate taxes, the estate may still be subject to the jurisdiction of the local probate courts. The very common method in this country of having property held by a family trust can sometimes be disadvantageous for the citizen of a foreign country.

To deal with this issue, it is paradoxically simpler to use a more complicated ownership structure. Depending upon the particular foreign country involved, the future plans of the family with regard to United States residency or citizenship, and other factors, it may be advisable to create a United States corporation that holds title to the real estate. In return, the stock in the United States Corporation is held by a foreign entity. The family owns the beneficial interests in the foreign entity.

Thus, the death of a family member causes no change to title in the property: the United States corporation continues as the title holder.

### **FIDUCIARY SERVICES GROUP**

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RSSM's Fiduciary Services Group offers a wide range of fiduciary services. We assist and guide fiduciaries as they perform their duties and fulfill their obligations. In appropriate circumstances, we can also serve as trustee, and/or executor for you and your family. We will provide your family with protection and security by helping you plan for the future with incapacity protection, probate avoidance, planning for minor children, distribution planning and estate tax planning. Our team approach allows us to provide you with the most basic protection and our experience enables us to assist you with the most complex arrangements, including charitable giving and sophisticated estate tax strategies.

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