



BY NANCY A. CHILLAG

Estate Planning For the Remodeler

Estate Planning usually involves drafting a will and maybe a trust, depending upon the size of the estate. These documents will set forth how your estate will be distributed upon your death.

Many people stop with these documents and assume that they are protected. The reality is that there is more that needs to be done to maintain the value of your estate at the time of your death.

Most remodelers are self-employed. In addition, many perform a combination of functions, such as sales, estimating, purchasing, invoicing, and actual physical labor on job sites. A jack of all trades.

All the details of past, present and future work are mainly in their heads. When that remodeler dies, so does the information in his or her head. The surviving spouse, children or other relative designated to handle the estate walks into what they term a "disaster."

They usually don't know what to do with the business. A more sophisticated executor may hire someone to come in and sort out the paperwork. But that could cause current project delays and prompt the client to look for a new contractor.

You may have lots of work that hasn't been invoiced. In addition, there are incomplete contracts which could generate a significant amount of money if completed. Unless the work is able to continue with only a short delay, this income will most likely be lost for good.

Most trusts and wills have standard provisions which allow the executor/trustee to take over

any existing business of the deceased. The reality is that most executors just try to wind down the business and then close the doors. This certainly does not provide maximum benefit for the survivors.

Thus, the contractor needs to do additional planning. The following are some suggestions:

Organize your documents.

While this can seem an insurmountable task, if your executor can't figure out the current status of the project, he can't continue the job. Your accountant can probably help you set up a basic system.

Find a substitute. Find a contractor you know that meets your ethical and workmanship standards. Talk to them about their willingness to finish your projects in the event of your death. This will assure you that your clients will be well served and the money you have in your project will not be lost. While they certainly cannot be expected to take over the work for free, an arrangement can be made for sharing the profit.

Train a foreman. While one of your employees may be able to take over the management of a project, under most state laws there must be a licensed contractor on board. Having a worker know the status of projects will make it easier for the new contractor and also result in the estate retaining more profits.

Inventory your tools and equipment. If the executor does not know what you own they are unable to collect it for use in the continuation of your projects or for ultimate sale. Most equipment is spread

among various job site. In addition, a lot of employees may have tools in their cars or at their homes that they use on the jobs – but that belong to you.

Plan for a sale. Most self-employed people believe their business has no value if they are not running it. While clients may use your company because of you, they likely hired you through referral.

In other words, they do not have a pre-existing personal relationship. If you are close to retirement or are considering "slowing down," consider bringing a licensee on board. Arrange a deal where they work for you for a period so you can properly train them.

Transfer a percentage interest in the company to them in exchange for either cash or a promissory note payable from the proceeds of the business. If you die in the interim, the entire company transfers to this person in exchange for either cash or a promissory note.

All your executor needs to do is complete the paperwork for the sale. Your clients continue to be served without delay, your executor does not need to figure out what is going on with the paperwork because the new owner has a handle on it, and your estate now has received a monetary benefit from your business.

Your local estate planning attorney can help you arrange the above details. ♦

Nancy A. Chillag is a Menlo Park, CA attorney specializing in real estate and construction law. Her web site address: www.chillag.com