

# Buy Sell Checklist

## 1. What type of entity is your business?

- |   |   |
|---|---|
| <input type="checkbox"/> Sole Proprietorship<br><input type="checkbox"/> C Corporation<br><input type="checkbox"/> S Corporation<br><input type="checkbox"/> Professional Corporation<br><input type="checkbox"/> Limited Liability Company | <input type="checkbox"/> Partnership:<br><input type="checkbox"/> General<br><input type="checkbox"/> Limited<br><input type="checkbox"/> Limited Liability<br><input type="checkbox"/> Limited Liability Limited |
|---|---|

## 2. Ownership

Owner's Name	Age	Ownership %	Children Active in the Business	Family Relationship to other Owners (if applicable)

## 3. Do you have a buy-sell agreement in place? \_\_\_Yes \_\_\_No

If yes, please complete the following:

Agreement date: \_\_\_\_\_  
 Date last reviewed: \_\_\_\_\_  
 Attorney who drafted: \_\_\_\_\_

## 4. What will happen to your business or your ownership interest upon your or another owner's death?

- Sell as a going concern.

To whom? \_\_\_\_\_

What is the value of the business in the event of the owner's death? \_\_\_\_\_

How is the value determined? \_\_\_\_\_

Will the buyer have the funds? \_\_\_Yes \_\_\_No

What is the source of funds? \_\_\_\_\_

- Pass to an heir or beneficiary.

What is the value of the business if it is passed on to heirs? \_\_\_\_\_

How was this value determined? \_\_\_\_\_

Will this value pass IRS scrutiny? \_\_\_Yes \_\_\_No

Who will inherit? \_\_\_\_\_

Are there any children who will not inherit an interest in the business? \_\_\_Yes \_\_\_No

Are they able to operate the business now? \_\_\_Yes \_\_\_No

Will they be able to operate the business in the future? \_\_\_Yes \_\_\_No When? \_\_\_\_\_

Who will operate the business in the interim? \_\_\_\_\_

How will you keep this person in the business? \_\_\_\_\_

Does the business own key person life insurance to incentivize this person? \_\_\_Yes \_\_\_No

Does the business already have capital to keep that person interested? \_\_\_Yes \_\_\_No

# Buy Sell Checklist

Will any other person need an income from the business? \_\_\_ Yes \_\_\_ No Who?

Name	Relationship	Income Needed

Does the business own keyperson life insurance on you to help cover this need for income?

Liquidate.

Is cash available for an orderly liquidation? \_\_\_ Yes \_\_\_ No

Is cash available to pay business debts for which the business is liable? \_\_\_ Yes \_\_\_ No

Is cash available to pay business debts for which you are liable? \_\_\_ Yes \_\_\_ No

Which business owners are personally liable? \_\_\_\_\_

Does the business own key person life insurance to repay the debt? \_\_\_ Yes \_\_\_ No

Total proceeds expected from liquidation? \_\_\_\_\_

5. What will happen to your business or your ownership interest upon your or another owner's total disability?

Sell as a going concern.

To whom? \_\_\_\_\_

At what price? \_\_\_\_\_

How was the price determined? \_\_\_\_\_

Will the buyer have the funds? \_\_\_ Yes \_\_\_ No

What is the source of funds? \_\_\_\_\_

Continue to operate by a child who is active in the business or by a keyperson until the child is prepared to operate the business.

Who will operate the business? \_\_\_\_\_

Are they able to operate the business now? \_\_\_ Yes \_\_\_ No

Will they be able to operate the business in the future? \_\_\_ Yes \_\_\_ No When? \_\_\_\_\_

Who will operate the business in the interim? \_\_\_\_\_

How will you keep this person in the business? \_\_\_\_\_

Is adequate capital available to keep that person in business? \_\_\_ Yes \_\_\_ No

Will any other person need an income from the business? \_\_\_ Yes \_\_\_ No Who?

Name	Relationship	Income Needed

What will happen to the ownership of the business upon a disabled owner's subsequent death? \_\_\_\_\_

# Buy Sell Checklist

Liquidate.

- Is cash available for an orderly liquidation? \_\_\_Yes \_\_\_No
- Is cash available to pay business debts for which the business is liable? \_\_\_Yes \_\_\_No
- Is cash available to pay business debts for which you are liable? \_\_\_Yes \_\_\_No
- Which business owners are personally liable? \_\_\_\_\_
- Does the business own key person life insurance to repay the debt? \_\_\_Yes \_\_\_No
- Total proceeds expected from liquidation? \_\_\_\_\_

6. What will happen to your business or your ownership interest upon your or another owner's retirement?

Sell as a going concern.

- To whom? \_\_\_\_\_
- At what price? \_\_\_\_\_
- How is the price determined? \_\_\_\_\_
- Will the buyer have the funds? \_\_\_Yes \_\_\_No
- What is the source of funds? \_\_\_\_\_

Continue to operate by a child who is active in the business or by a keyperson until the child is prepared to operate the business.

- Who will operate the business? \_\_\_\_\_
- Are they able to operate the business now? \_\_\_Yes \_\_\_No
- Will they be able to operate the business in the future? \_\_\_Yes \_\_\_No When? \_\_\_\_\_
- Who will operate the business in the interim? \_\_\_\_\_
- How will you keep this person in the business? \_\_\_\_\_
- Is adequate capital available to keep that person in business? \_\_\_Yes \_\_\_No
- Will any other person need an income from the business? \_\_\_Yes \_\_\_No Who? \_\_\_\_\_

Name	Relationship	Income Needed

Does the business have adequate capital to help cover this need for income? \_\_\_Yes \_\_\_No

Liquidate.

- Is cash available for an orderly liquidation? \_\_\_Yes \_\_\_No
- Is cash available to pay business debts for which the business is liable? \_\_\_Yes \_\_\_No
- Is cash available to pay business debts for which you are liable? \_\_\_Yes \_\_\_No
- Which business owners are personally liable? \_\_\_\_\_
- Total proceeds expected from liquidation? \_\_\_\_\_

# Buy Sell Checklist

## 7. What events should be included in the buy-sell agreement?

- Death of an owner.
- Disability of an owner.
- Mutual “friendly” separation.
- Normal retirement.
- Involuntary Termination of employment other than by death or disability.
- Outside third-party offer.
- Divorce, bankruptcy or creditor claim against an owner.
- Termination of professional license.
- Prolonged deadlock in the business’ board of directors or a prolonged dispute among owners.
- Business owner quits and competes with the business or solicits the business’s clients for his sole benefit.
- Business owner quits and divulges confidential information or breaches some other trust.
- Business owner pledges or assigns his business interest as security for a personal debt without proper authorization by other owners.

## 8. Who should be allowed to buy the business interest?

- The business (entity purchase).
- The other owners (cross-purchase).
- Determined at the time of the triggering event (wait and see).
- Business control passes to other owners, but the remaining interest is passed to the deceased owner’s family (no-sell buy-sell).
- Third party - at the time of the triggering event.
- Third party – after being offered to other owners or the entity first.

## 9. Business Valuation

Have you had your business valued in the past? \_\_\_Yes \_\_\_No If yes, when? \_\_\_\_\_

Who performs business valuations for businesses similar to yours? \_\_\_\_\_

How is the value typically determined for similar businesses?  
\_\_\_\_\_

Do all business owners agree with this methodology? \_\_\_\_\_

## 10. Valuation of less than 100% ownership.

Should the business’ value be reduced for any of the following?

- Minority interest
- Non-marketability
- Certain events (e.g. voluntary departure to set up a competing business) Explain \_\_\_\_\_  
\_\_\_\_\_

What should the discount be? \_\_\_\_\_

# Buy Sell Checklist

## 11. How should the business interest be sold?

- Cash – lump-sum payment.
- Cash down payment with installment payments. How long \_\_\_\_\_? What interest rate? \_\_\_\_\_ Restrictions on transfers, dividends, etc. until the buy-out price is paid in full? \_\_\_\_\_
- Loan.
- Pay as you go.

## Unique Provisions for All Professional Corporations/ LLC's

- How will patients and clients be divided up? (Agreement should require patients and clients to be notified and assure no interruption of services.)
- How will tangible assets, equipment and supplies of the firm or practice be apportioned? Who keeps the office, the phone number, etc.?
- How should accounts payable, work-in-process and unbilled expenses be allocated?
- What happens to retirement plan assets if a participant is less than 100 percent vested?
- Who pays the premium for the malpractice “tail”?
- What happens if a professional loses the license to practice (or doctor loses hospital privileges or board certification)?
- What if a professional receives unfavorable notoriety that causes public disgrace to the practice or firm (e.g. a doctor is arrested for driving under the influence of alcohol or drugs or is convicted of manslaughter)?
- What happens to working papers and files, books, records, financial statements and tax returns?
- What happens to existing leases? Who is responsible to make payments?
- What happens to employees and employee records?
- Have all existing and contingent liabilities been identified? Who pays existing debts of the firm?