Business Succession Planning

Learning Objective:

- Identify relevant estate planning objectives and considerations important to the shareholders of a private business.
- Align and explain retirement and estate planning strategies that address business owners' planning objectives.

The Facts

Hank is a successful businessman on the verge of retirement and has approached you for advice on how to best transition his personal and business assets to his family, both now and at the time of his death. A widower, age 63, Hank has amassed considerable assets, much of them associated with the unincorporated trucking firm that he has owned and operated for the past 22 years.

Hank has three children: two actively employed in his trucking business, Hank's Haulage, and one daughter, LeeAnne, 40, who is a nurse and is divorced with two children living at home. Hank's son Brent, age 38, has worked since graduating college as the office manager and dispatcher. Hank's other daughter, Karen, age 34, handles the long-haul jobs with one of the business's 18-wheelers. Brent and Karen would like to continue working in the trucking business as a career and envision taking over Hank's Haulage in the relatively near future. The three children all get along but none of them sees LeeAnne becoming an active participant in the business.

Hank has been grooming Brent and Karen to take over the business when he retires, but realizes that he cannot afford to simply hand it over to them. Aside from his modest RRSP and government benefits, Hank is counting on receiving a generous income, somewhere in the range of $170,000 annually, from the business to support him in retirement. On the other hand, the children do not have the resources to buy out the business just now, nor are they likely to be able to afford it in the near future. Hank is looking to you for a solution to the problem.

The physical assets of Hank's Haulage have a fair market value of $1,540,000, as depicted in Exhibit A.

Exhibit A

Hank's Haulage Asset Summary

ASSET	FAIR MARKET VALUE	ADJUSTED COST BASE	UNDEPRECIATED CAPITAL COST
Trucks	$600,000	$800,000	$520,000
Warehouse & Land	$800,000	$450,000	$320,000
Equipment	$120,000	$150,000	$135,000
Furnishings and Office Equipment	$ 20,000	$ 32,000	$ 18,000
TOTAL	**$1,540,000**		

Hank feels that he could probably get about $1,750,000 for the business and its assets on the open market, if he sold the business as a going concern.

Hank's accountant has been after him for years to incorporate the business, explaining the tax advantages that incorporation could offer, but Hank has never felt the need. He has run Hank's Haulage as a sole proprietorship since its startup and has been content to keep it that way. In addition to the business, Hank owns assets totaling $524,000 as shown in Exhibit B, and is debt-free.

Exhibit B

Hank's Assets

ASSET	FAIR MARKET VALUE (FMV)	ADJUSTED COST BASE (ACB)
House	$320,000	$160,000
Cars/Furnishings	$40,000	$65,000
RRSP	$80,000	$56,000
Investment Portfolio	$62,000	$56,000
Bank Accounts	$22,000	$22,000
	$524,000	

Hank presently has no life insurance, having cancelled his term policy shortly after his wife died. He is, however, in excellent health and is confident that he could qualify for a policy, if needed.

He is in a 45% marginal tax bracket, has never used any of his lifetime capital gains exemption and has not made any charitable donations this year. He has expressed to you that he wishes to minimize taxes (including probate fees) wherever possible, both now and at the time of his death.

LeeAnne's two children are Claude, age 21 and Irene, age 14. Hank is well aware of LeeAnne's limited financial circumstances and wants to ensure her financial security, and that of her children, to the extent that he can. Irene suffers from a genetic disorder and is unlikely to ever hold down a meaningful job. Claude has recently joined a radical religious sect. As a consequence, Hank is adamant that Claude should never be entitled to any of his estate unless he renounces the organization.

Hank has long been closely associated with a local community association, a registered charity, which has helped his children and grandchildren a number of times. He would like to offer a generous contribution to the association, perhaps as much as $150,000, if he could afford to. He could use the tax deduction now, but simply cannot afford to relinquish the income that the funds could offer him in retirement. Hank did not update his will or power of attorney following the death of his wife six years ago. His will and power of attorney were executed 20 years ago and named Hank's late wife as his legal representative and the sole beneficiary of his estate. In the event that she should predecease him, the will identifies his children living at his death, in equal shares per capita, as his successor heirs. He understands that his will is out of date and may need modification, particularly now that he has met someone new, Marge, and has a tentative date to remarry within the next year. Hank and Marge plan to celebrate his retirement by taking a round-the-world cruise.

Marge's spouse died three years ago, leaving her with few assets and substantial debts. A marriage to Hank will mean not only companionship, but the prospect of financial security for the rest of her life. Hank is comfortable with this arrangement and wishes to ensure that Marge has a good lifestyle in her later years, but is also very mindful of his obligations to his children.

Question 1

Explain four recommendations you would put forward to Hank that will help him meet his estate, financial planning and tax objectives in relation to his business, without negating another objective.

Reference:

- *Wealth Planning Strategies for Canadians, 2020 Edition: 16.2.1; 16.5.2*
- *Wealth Planning Strategies for Canadians, 2020 Edition, 16.5.2*
- *Estate Planning with Life Insurance, 7th Edition: 5.2; 5.4 & 7.2(b)(iv)*

Question 2

Briefly explain to Hank four different ways that inter vivos trusts could be employed, now or in the near future, to help him to achieve his estate and financial planning objectives. Include, where appropriate, a short discussion of the income tax ramifications of setting up and operating the various trusts.

***Reference*:**

- *Estate Planning with Life Insurance, 7th Edition, 3.3(c)(iv)*
- *Wealth Planning Strategies for Canadians, 2020 Edition: 12.3.1; 24.2.8*

Question 3

Outline four recommendations that you would put forward to Hank to help meet his will planning objectives.

***Reference*:**

- *Estate Planning with Life Insurance, 7th Edition: 7.2(b)(iv)*
- *Wealth Planning Strategies for Canadians, 2020 Edition: 8.5.2.1; 8.5.1.2.2; ; 10.5.9; 17.2.5 ;19.2.7; 20.1*
- *Course Guide (257) 1.14*