

Unlocking Success

IN THE BUSINESS PLANNING
MARKETPLACE



WHO WE ARE

John Hancock's Advanced Markets team is recognized as one of the best in the industry. We are a team of attorneys and consultants with a strong background in all facets of estate and business planning. We are constantly educating ourselves on the latest tax, legal, and legislative issues that could impact you and your clients. What differentiates us from other Advanced Markets' groups? Real-world experience.

Attorneys

Our attorneys came to John Hancock from top law firms across the country. Their actual practice experience means that they understand not only your clients' needs, but also what motivates attorneys. This knowledge can be the extra advantage you need to help close the sale.

Advanced Markets Consultants

Our Advanced Markets Consultants have over fifty years of sales and field experience among them and hold CLU, ChFC, CFP®, and FLMI designations. They can help design and illustrate a case that meets your clients' needs, and offer support and insight in overcoming common client objections.

HOW WE CAN HELP

Case Design and Consultation

Our attorneys and consultants are available to help you with all stages of the sale. Whether you need just a quick consultation or a full-blown analysis, we have the tools you need. From fact-finding, to exploring planning options, to illustrating the case, we will help you every step of the way.

Advanced Planning Tools

John Hancock's Advanced Markets team has many tools available to help you with your cases. Most of our tools and calculators produce a client-approved presentation that helps you illustrate the specific case design and highlight options for your business owner client. Our tools include:

- 1) JH Solutions:** This is our flagship proprietary concept illustration software. It creates custom solutions based on your client's needs. Whether you need to illustrate business planning strategies, or even individual strategies for your clients, with over 40+ concepts available, we can help in the design and creation of a custom package.
- 2) Calculators:** Our online calculators can help with everything from estate tax calculations, business valuation, retirement need shortfall and personal life insurance needs.
- 3) Advanced Markets Blog:** Log on to the AM Blog for the latest updates on successful cases and best practices, announcement of new materials and tools available, discussion of current events, and to access tips and resources to help further your insurance practice.

Contact Advanced Markets

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Option 3 — Consultants

Option 4 — Attorneys

Advanced

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**Don't miss our insert
on the innovative
John Hancock
Vitality program in
the back pocket of
this Guide!**

Markets

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The John Hancock Business Insurance Guide

This Guide is intended to give you an expansive overview of the business insurance market and why you should embrace working with business owners as part of your practice. We want you to understand the many ways purchasing life insurance can benefit business owners and provide you with the questions to ask them in order to understand, meet, and address their needs. Whether you are new to the business insurance marketplace or a seasoned veteran, there is sure to be something here that can help you expand your business insurance practice. It's as simple as:

- **Developing relationships**
- **Asking questions and listening to answers carefully**
- **Solving problems**

You can be successful in this marketplace!

Our experience tells us that if you are successful working with one business owner, you have a strong opportunity for either repeat sales with the same business owner or for a referral to other business owners who need your services.



USING THIS GUIDE:

This Guide is separated into five key parts:

- I** Prospecting
- II** Business Succession Planning
- III** Retaining and Rewarding Employees
- IV** Retirement and Estate Planning
- V** Additional Considerations

If you are newer to the business planning marketplace, start with the prospecting section, which will provide valuable information about prospecting, understanding the mindset of the business owner, and key questions to ask to identify and prioritize the owner's goals and uncover those areas of most concern.

After learning about the business and the owner's concerns and goals, the next step is to target planning strategies and opportunities that will help address what the owner is looking to accomplish. To do this, start with the section that most closely coincides with the need, concern, or goal the owner has expressed to you as the most important and take it from there.

Welcome

DID you KNOW?¹

- **Walt Disney** used a loan from the cash value of his personal life insurance policy to finance his first theme park, Disneyland, in California
- The owner of **McDonald's** used loans from his two cash value life insurance policies and bank loans to cover the salaries of key employees in the early years of the company
- **Stanford University** used the death proceeds of its founder to weather a period of financial difficulty
- The founder of **JCPenney** borrowed from the cash value of his personal life insurance policy to help the company survive the Great Depression
- The founder of **The Pampered Chef** borrowed from the cash value of her life insurance policy to start the company

The Value Proposition of Life Insurance to a Business Owner

There are many business needs that can be addressed using life insurance. For example, the death benefit can be valuable to:

- **Repay a business loan**
- **Protect the business from financial hardship due to the death of the business owner or key employee**
- **Fund a succession plan with the surviving owners, or**
- **Pay estate taxes associated with the business interests included in the owner's estate**

Additionally, a permanent life insurance policy with cash value can:

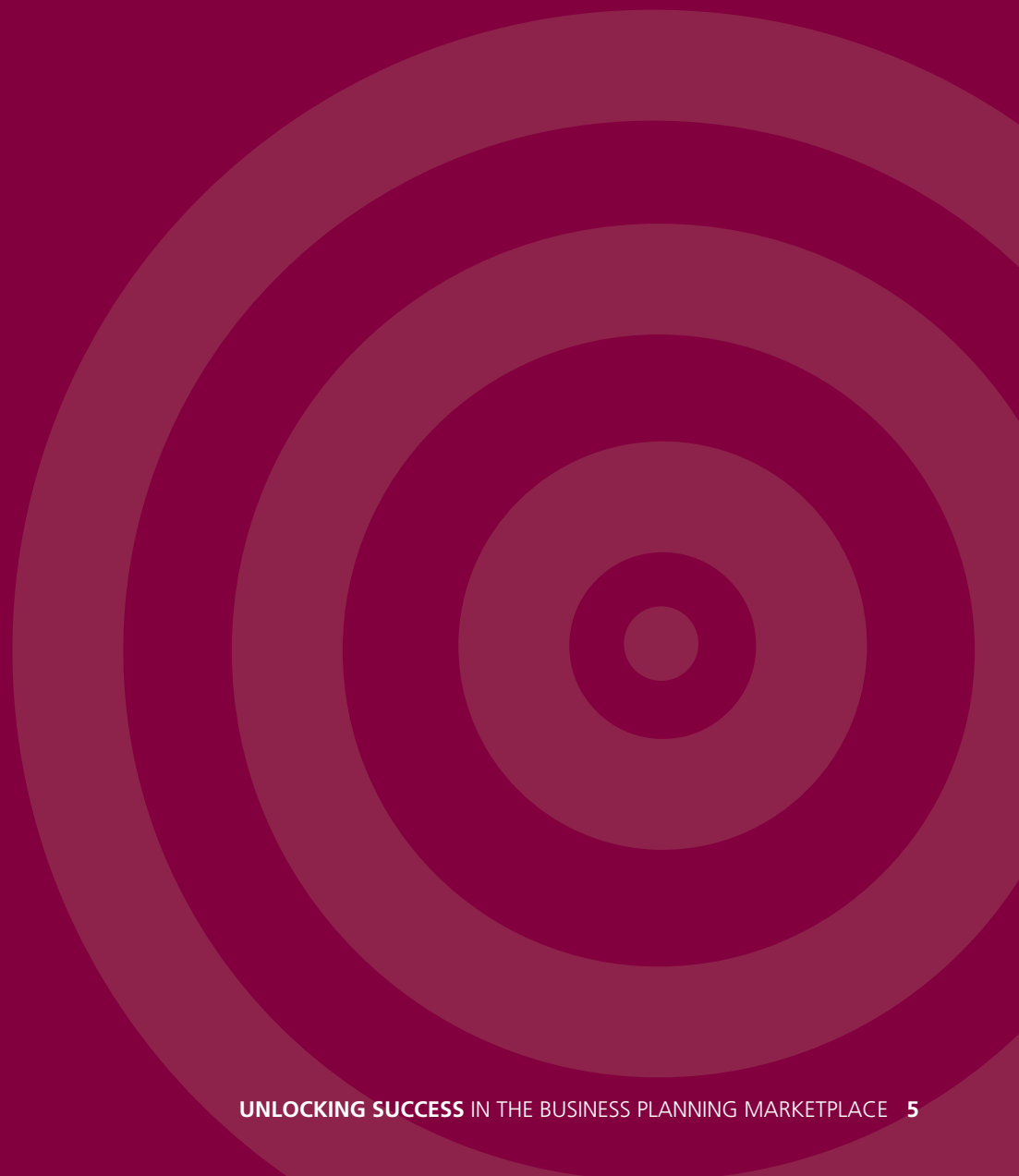
- **Provide supplemental retirement income to the business owner**
- **Informally fund an executive benefit plan that will attract and retain top management personnel or other key employees**
- **Furnish additional funds to help support or grow the business**

POWER OF PERMANENT LIFE INSURANCE:

- ➡ Tax-free death benefit*
 - ➡ Tax-free access to cash value (for permanent policies)
 - ➡ Competitive rates of return
-

* Some exceptions apply. Please consult your professional tax advisor for details.

Prospecting



WHAT IS PROSPECTING?

In simplest terms, prospecting is all about talking with as many people as possible to achieve one goal — the other person's agreement to meet with you for 10 to 15 minutes in the future to discuss the work you do.

Begin prospecting by making a list of all the people you know in the community

Include on the list the names of: existing clients; neighbors; old neighbors; family; friends; people who already provide services or products to you (e.g., hairdresser, barber, electrician, plumber, auto mechanic, etc.); people involved in volunteer associations with you; people affiliated with your house of worship; parents of kids on your child's sport teams or youth associations. You get the idea — don't limit yourself when putting together the list.

Prioritize the list by a) existing clients, b) business owners you know, c) people you know who know business owners, and d) others. Contact the people on the list by priority. Try to set up a brief meeting with them to talk about the services you can offer. With existing clients, schedule a meeting to review with them the planning you have already done, which will give you an opportunity to talk about how you are expanding your service model to include business owners.

YOUR TARGET MARKET: THE SMALL TO MEDIUM SIZED BUSINESS

Small businesses make up the majority of businesses in the United States. In fact, 98% of all U.S. employers are small businesses, and provide jobs to 35% of the U.S. workforce (over 40 million people).²

If you are new to working in the business insurance market, you may want to focus your attention on the small- to medium-sized business segment because they need your services. Larger employers will generally do the work internally, or hire outside vendors who have developed specialties targeting bigger companies. You can develop a successful practice serving small- to medium-sized businesses in your town and the surrounding communities.

USING SOCIAL MEDIA AS A PROSPECTING TOOL

Websites and social media can be key resources in terms of finding new prospects in your area as well as gathering information about a prospect prior to a meeting. However, it is important that you also have and maintain a strong professional presence on social media. Creating a profile on the various social media websites and posting regularly to your profile has a multitude of advantages in terms of prospecting for new clients, including:

- **Acting as a lead generator and free advertising**
- **Helping prospects learn more about you before meeting in person**
- **Publicizing endorsements you receive from your existing clients or from other business owners who are aware of your work**
- **Promoting your professional designations or the awards you receive**

Be careful to separate your professional social media use from your personal social media use, and remember to use discretion on your personal social media so that you do not lose potential prospects before you even have a chance to meet them. Lastly, always follow your company's protocol for using social media. A good rule of thumb is if you're not sure about posting something on social media, check with your company first — *it's better to be safe than sorry.*



See page 14 for key questions to ask a prospect at an initial meeting.

OTHER PROSPECTING TOOLS:

Centers of Influence	Get to know attorneys and accountants in your area and let them know about the services you provide. They can be great sources for prospects. They can also serve as professionals you can refer your clients to for legal or tax assistance.
Joining Influential Clubs or Organizations	You can meet business owners at Rotary Clubs and local Business Associations. For the cost of dues, you can join these groups and attend their regular meetings. Often these groups invite guest speakers and you may want to take that opportunity to talk about topics you know will be of interest to them. Being seen as an expert in a specific area may provide opportunities for business owners to approach you with questions about their business.
Cold Calling (by Phone)	You may find that a lot of calls are necessary to get a lead. Any information you can gather on the business before making the call may prove beneficial. The cost is your time.
Cold Calling (in Person)	As with cold calling by phone, you may find that you have to walk into a lot of businesses before you get a lead. However, you are there in person and that may be just enough for the business owner to speak with you. Any information you can gather on the business before making the visit may prove beneficial.
Direct Mail	You can get lists of businesses in your area from the local Chamber of Commerce. You can also purchase lists of businesses from direct mail companies. As with cold calling, you may find that you have to send many flyers/letters to get a lead. Cost may be a consideration.
Business Publications	It is common for regional Chambers of Commerce to publish a magazine or circular that will highlight local businesses.

Internet Search

Most businesses have websites where you can learn a great deal about the products or services they provide, how old the business is, and where they are located. Often the business owners' names and management team are listed as well.

Local Newspapers

Most local newspapers will often have specialized business inserts that you can use to learn about businesses in the area. Also charitable organizations may advertise their appreciation to key donors who are business owners in the area.

Advertise

You may want to place an advertisement in your local newspaper in a section that targets business owners or in a business publication. The Yellow Pages are also a place you may want to highlight an ad that draws attention to your name. Cost will be a factor with this approach.



Understanding the Business Owner

People who own a business are driven to make that business successful. There may be many paths that lead to achieving that success, but business owners will give priority to those tasks that are, in their minds, the most important. Think of it as building a house. You can't put the roof on until the foundation, walls, and support beams are in place. Running a business is the same — a business owner trying to build a successful business will focus on the most important tasks first and proceed from there.

Successful business owners will often tell you how they poured their heart and soul into the business to get it started. The pride they have for the product they produce or the service they provide is evident in even the briefest of conversations. They look at the business as their legacy, a creation that has their lasting imprint on it, and maybe even their name.

Every business owner can tell stories about the issues they faced getting started and the doubts they had in those first few years. Listening to those stories, it's as if they are experiencing them right now. Those are personal stories — part of the fabric of who they are as business owners. They own those stories because they faced those issues and either overcame them or, at least, learned how to acceptably deal with them. Business owners know that there are ongoing issues to be dealt with, such as staffing, competition, increased cost of raw materials, business expansion, or tax, legal, or regulatory rules. The difference is that successful business owners have the confidence to deal with ongoing concerns because they have the positive experience of overcoming past issues.



Business Timeline:

Year 1

In the first few years, business owners are focused like a laser beam on getting the business up and running. Every spare dollar they have goes into the business, including any profits. They will watch their expenses like a hawk and will not spend money for anything that is not deemed “necessary” to grow the business. They may even go so far as to not pay themselves in those first few years, because they view those dollars as too important for establishing the business. Their worry is about “today” because they don’t know yet if the business will have a “tomorrow.” Starting a business is a stressful process, and often becomes the business owners’ sole focus in life.

Years 3–5

Somewhere around the three-to-five year mark, the owners begin to have a sense of the long term sustainability of the business. They have learned to manage the “today” issues. The business may begin turning a profit and, while they are still putting capital towards building, they may have cash available for other needs. It is often at this juncture that the owners begin to shift some of their attention to items that are more long term in nature — the “tomorrow” issues.

Years 5+

With a measure of stability to the business there could be many things the owner begins to consider — refining the production process or changing the raw materials to make the product better or less expensive; expanding product or service lines; expanding geographic locations or increasing production or storage space; hiring more staff or managers to increase production; and improving employee benefits, including qualified retirement benefit plans. Gradually the “tomorrow” issues become a set of new “today” issues. This is where your service can become invaluable to the business owner. You can help him/her establish clearly defined goals in several key areas and then help the owner determine how best to implement a funding strategy to achieve these goals.

Your Role as the Advisor

Business owners are fiercely loyal as clients. They want to do business with people they trust, and if you've proven yourself as an advisor and resource, they will want to continue working with you. The tradeoff is an expectation by the business owner that you will provide them exceptional service — not just occasional service, but sustained service. This means listening carefully to the business owner and taking the necessary steps to follow through with their requests. It also means staying in regular contact with the business owner and reviewing any implemented planning strategies regularly — at least annually. If you sell a product to a business owner it would be a mistake to think of it as one-and-done. You have to think of it as building a long term relationship. Providing excellent service to the business owner can lead to referrals to other business owners, which will help you build your business.

Think of yourself as a resource for the business owner — an advisor who offers knowledge and practical suggestions for long term business needs. Stay open minded and listen to the business owner. You don't have to have answers immediately — you have to understand the problem first and that may require several conversations with the business owner and other advisors such as an attorney and tax specialist. After you understand the problem and the business owner's goals then you can recommend options that can be considered. You are not selling life insurance. You are a problem solver addressing business needs for which life insurance is ideally suited. You are the business owner's guide to navigating the various aspects of planning — business succession, retaining key employees, personal planning, etc.

Your goal should be to have relationships with business owners whose businesses are at various levels of development, i.e., mature businesses, growing businesses, and start-up businesses. Establishing your practice with a mix of businesses at different development points will help you be prepared for new business clients. You have to get started somewhere though, and to do that you have to get out and meet people. Yes, this is the technology age but business owners want to know the people they are working with, so even if you use technology to reach out to prospects and clients, the personal touch remains important.

You are not selling life insurance.

You are a problem solver addressing business needs for which life insurance is ideally suited.

Building the relationship

Building a relationship may prove hard as business owners are often fickle and prone to cancel or postpone meetings, especially early on in a relationship when you are not yet as important to them as you will become. If there is a pressing issue with the business then the business owner will address that first. You have to expect this, understand it, and accept it. Don't get discouraged by it. Remain diligent and persevere. The business owner needs to understand that the service you provide to him/her is as important to you as the service he/she provides to his/her clients. Continue developing the relationship with the business owner even if the business is very new and lacks cash flow. You want to be the person the business owner turns to when they are ready to focus on their planning needs. You need to convey to the business owner that you understand the difficulties he/she faces, no matter the phase of development the business is in, and that you can help him/her solve their problems.

Fact finding and data gathering

In an ideal world you would be able to sit down with every business owner prospect and in your first meeting gather every pertinent piece of information that you need. In reality you will more likely need to build your book of information about the business owner and the business over a period of time. Most business owners are not going to tell you everything up front unless they know you well and trust you. As you get to know the business owner, try to make mental notes of the things you learn even in casual conversations and afterwards write the information down until you need it. Although you will want to hold off on making recommendations to the business owner until you have a complete picture of their situation, the things you learn early in the developing relationship could be important to know later when you and the business owner begin to set goals and develop strategies.

Prioritize goals and attack one at a time

Once you have earned the trust of the business owner it's important that you understand you cannot address every issue at one time. This would prove to be overwhelming to both you and the business owner. You may need to start with smaller items first depending on what the business owner's concerns are. Without a doubt, listening is the most important thing. You will have to gauge a) what are the critical priorities to the business owner and b) is he/she able to focus on them at the current time. Keep in mind that what you think are the critical priorities may not be in line with the business owner's priorities. You will have to adjust to the business owner's situation and work on the issues of primary concern to him/her. As you and the business owner accomplish specific tasks, no matter their order, it will make it easier to focus on issues that the business owner has been unable or unwilling to focus on.

Key Questions TO ASK

Business owners want to share the narrative of their company's origins so these questions are a great way to not only let them tell their story, but also helps them get comfortable with you without being put on the spot. They will also give you more insight about the business, which will be helpful when developing a business solution for the client.

Getting to know the prospect

- Owning a business must be rewarding and challenging. Tell me about it. How did you get started?
- You are really passionate about what you've built. What would you say makes your business unique?
- What are the biggest challenges you face now?
- What are your long term goals for the business?

More detailed questions

What is the business structure (e.g., corporation, partnership, etc.) and what led you to choose it?

This is one of the most important questions to ask as the answer may open up possibilities for additional planning or rule out strategies not appropriate for that business structure. Resources like the John Hancock Advanced Markets team will need this business structure information in order to help you determine the best planning solutions for your client. For more information about different business structures and how they compare, see the Business Entities insert in this Guide.

Are there other owners? If so, what is the ownership percentage for each?

You will want to know if others have decision-making authority as a business owner and multiple business owners may require additional considerations if buy-sell planning is needed.

Are there family members in the business? Are there family members not in the business?

The purpose of this question is to understand how other family members are involved in the business and how the business owner may view their role currently and for the future. Additionally, if there are some family members involved in the business and some others who are not, this could lead to planning opportunities to help ensure family harmony.

Are any of your employees critical to the success of your business?

Knowing who the key employees are helps with succession planning as well as protecting the business against the loss of a key person. Is the employer concerned the key employee may leave to work for a competitor? One of those "tomorrow" issues is continued growth of the business, which may be beyond the capacity of the owners to do alone. This may mean hiring the right people with the right skill set to possibly manage production or advance sales. Attracting those people may require providing incentive for them to join the company. A follow up question could be "Have you considered any plans especially for the key people so they have incentive to continue working here?"

How would you prioritize these four business considerations?

1. Minimizing taxes
2. Retaining important employees
3. Long term business continuity
4. Me and my family

By prioritizing these business considerations, the business owner will give you an idea of where to start when it comes to planning opportunities that will help address these concerns. Priorities 2, 3, and 4 each relate to a specific section of this Guide. Priority 1 – minimizing taxes – is addressed throughout this Guide.

What planning have you already implemented, if any?

If planning was already implemented perhaps it needs to be reviewed to be sure it is meeting current goals. If not, then there may be a need for changes that better meet those goals.

Do you work with an attorney or tax advisor currently?

The purpose of this question is to determine who are the professionals that the client is already working with so you can prepare to make them part of the planning team. If the client has no attorney or accountant, then you have an opportunity to recommend professionals with whom you have an existing relationship.



Business Succession Planning

Business Succession Planning

Succession planning is critical to supporting the effective transition of a business from one owner to the next; whether that transition occurs due to a planned exit by the owner — like the owner's retirement — or an unexpected or tragic event — like death or disability. Without a plan in place, a thriving business could fail in an instant, jeopardizing the financial futures of all those who rely on the business and its continued success.

Unfortunately, statistics show that **up to 69% of business owners do not have any formal succession plan for their business.**³ Why is this the case?

- For more established businesses, the owner has probably spent a good portion of his or her life creating or supporting the business and working to make it profitable. Given how much these owners have sacrificed to build their "life's work," they cannot imagine (or do not want to imagine) a time when they will not be involved in their business.

For newer businesses, the owner may be more concerned about keeping the business afloat and thriving in the present rather than spending time to consider what will happen to the business in the future.

- For all owners, the process of creating a business succession plan also may seem too cumbersome and time-consuming, especially when a "successor" is not already identified or requires the owner to choose among family members or valued employees. When so much of a business owner's time is consumed by the day-to-day activities associated with running the business, taking the time to discuss what should happen to the business at some unknown date in the future may have the owner running for the hills.

Despite many owners' reluctance to sit down and make a plan, the reality is that no owner will be involved in his or her business forever. **In fact, 40% of business owners have indicated that they expect to retire in the next 10 years.**⁴

For family businesses, which comprise 80% to 90% of all business enterprises, lack of planning also could have a significant effect on the viability of a business as it passes down through the generations — considering that currently **only 30% of family owned businesses survive into the next generation and 12% remain viable until the third generation.**⁵

For "key questions" to help initiate the creation of a business succession plan and identify potential successors, see page 26.

WHAT IS BUSINESS SUCCESSION PLANNING?

The answer to this question may seem obvious, but many people incorrectly talk about succession planning or continuity planning interchangeably with buy-sell planning. Although a buy-sell plan (also referred to as buy-sell agreement) may be an important element to the continued success of a business, succession planning is much broader than just a buy-sell agreement.

Succession planning is the process of identifying the key factors that help make a particular owner's business successful — e.g., management, employees, customer relations, owner involvement, etc., — and creating a “blueprint” that helps support these key factors when a business transitions from one owner to the next.

A succession plan generally will outline these key factors:

- **The owner's goals for the business**
- **When the owner wants to leave the business**
- **How he or she wants to leave the business — sell, retire, etc.**
- **To whom he or she wants to leave or sell the business**
- **How to fund transfers, sales, retirements and disability**
- **Who will manage the company after the owner's departure**
- **How to retain key employees vital to the transition of the business**
- **Considerations to avoid family discord**

Getting a business owner to sit down and think about these important factors helps secure the business' future by having a plan in place — especially when the unexpected occurs.

It is important to note that a succession plan for one owner may look completely different than another owner as each one is customized to the owner's unique goals, objectives and circumstances. For example:

- In a family-owned business, the succession plan may outline the transition of ownership to the next generation without necessitating any type of formal buy-sell agreement. This type of succession plan may be focused on when the business will transition to the next generation, how to mentor or train the next generation so they are prepared for ownership, and how to protect the value of the business for the next generation at the death of the owner.
- For a business with multiple owners, the succession plan may require that ownership stay among current and active owners, necessitating an exit strategy for an owner who retires, becomes disabled or dies. This is where a buy-sell agreement, which is part of the overall succession plan, would likely be used to ensure that the business properly transitions among the owners.

Just as a **business plan** can be vital to the creation and on-going success of a business, a **business succession plan** is vital to the continued success of a business after a key owner has left.

Planning Opportunities

The most common planning opportunities considered when working on a business succession plan are discussed below and based upon who the client has identified as a possible successor or person essential to the continued success of the business:

- **Family member**
- **Another business owner**
- **Key employee**
- **Successor unknown**

These opportunities are not exclusive to any one group and there may be cross-over between groups. For example, if a client indicates that he is in a family business with his two brothers and his son, he may want to simply leave his interest in the business to his son via the Last Will and Testament or may want to have a more formal buy-sell agreement that requires the co-owners to purchase his interest at death. You should consider both planning opportunities for a family member and opportunities when there are multiple owners.

Family member as successor

When working with a business owner who plans to transition his or her business to a family member, the owner may want to transition the business via lifetime gifts and/or at the owner's death. Although transitioning the business via a gift or bequest is fairly straightforward and may not require complicated documents, life insurance could be an essential factor in this type of plan to ensure that both the family and the business are protected after the owner is out of the business.

Consider the importance of life insurance in the following scenarios:

Estate Taxes	Estate taxes can have a debilitating effect on a closely-held business if there is not enough liquidity in the estate to pay the tax liability within the 9 month window allowed after the business owner's death. Life insurance provides cash precisely when an estate needs it most. For more information on estate taxes, see the Retirement and Estate Planning section of this Guide.
Estate Equalization	Passing on a family business to the next generation can present challenges, especially when there are heirs more active in running the business than others. To avoid creating conflict and inequality amongst the heirs, the purchase of a life insurance policy on the senior generation business owner would provide a resource to equalize the inheritance at the owner's death for the non-active heirs while protecting the business for the active heirs.
Key Person Insurance on the Business Owner	In many family businesses, the death of the primary business owner (usually a senior generation owner) could result in detrimental financial loss that may threaten the company's ability to continue its operation. Life insurance can help the business stay afloat while the younger generation becomes acclimated to running the business and forging new business relationships previously secured by the older family member. Additionally, a key person policy could be used to pay off any debts that may be called by the bank at the death of the senior owner or to help retain key employees that otherwise may leave at the death of the owner.

Co-owners as successors

Very often a business with multiple owners will want the succession of the business to stay with the active or current owners. Consequently, a buy-sell agreement, which provides an option or requirement that a departing owner transfer his or her business interests to the remaining or surviving business owners, will likely be used as part of the overall succession plan — especially when working with business owners who are not family members.

WHAT IS A BUY-SELL AGREEMENT AND HOW DOES IT FACTOR INTO SUCCESSION PLANNING?

A buy-sell agreement is a legally binding contract that provides for the transfer of ownership in the business upon a “triggering event” — e.g., death, disability, retirement, divorce, bankruptcy, etc. Working with tax and legal counsel, the owners of a business (and possibly the business itself) enter into a written agreement that provides rights and/or obligations for the purchase of a business owner’s interest in the business should one of the specified triggering events occur. The owner, in turn, agrees that he/she (or his/her estate, in the case of death) will transfer the business interest to the other owners (or the business itself) for an agreed-upon price.

By implementing a buy-sell agreement, the business is more likely to continue running smoothly after the departure or death of one of the owners due primarily to the fact that the remaining owners can rest assured that the business will remain in their control and they will not need to work with any outside parties. The departing owner and his/her family is also protected by a buy-sell agreement in that there is a designated buyer for his/her interest in the business if a triggering even occurs, which means the owner (or his/her estate) can be fairly compensated for his/her interest in the business.

Does your client already have a buy-sell agreement in place? If so, see page 23 for questions and tips to determine if the current buy-sell agreement needs to be updated.

A buy-sell agreement can be an essential factor in planning for the continued success of a business, particularly in the following areas:

- **Creating a market for an owner’s interest** in the business, usually when it is needed most — e.g., death of the owner, disability or retirement
- **Establishing a purchase price for the business interests**
- **Protecting owners who** continue in the business interest by restricting transfer of ownership interests to outside parties
- **Providing liquidity** for the deceased owner’s estate to pay estate taxes or other debts of the estate

WHAT ARE THE MOST COMMON TYPES OF BUY-SELL AGREEMENTS?

Entity Redemption

Provides that the business will pay the owner or the owner's estate an agreed upon amount for the owner's interest in the business upon a triggering event — e.g. death, disability, or retirement. The owner, in turn, agrees that he/she (or his/her estate, in the case of death) will transfer the business interests back to the entity for the agreed-upon price. To meet the obligations under the buy-sell agreement, the business will purchase life insurance on each of the participating owners. The policy is employer-owned and therefore must comply with IRC 101(j) to ensure the death benefit will be received tax-free. See pages 35, 39 and the *BYA: 101(j) Requirements for Employer Owned Life Insurance* insert for important information about employer-owned insurance requirements under IRC 101(j).

Cross Purchase

Provides that each owner of the business will purchase another owner's interest in the company upon a triggering event. Typically, each owner is required or has the option to purchase a percentage or proportional share of a departing owner's interest in the business. In turn, each owner also agrees that he/she (or his/her estate, in the case of death) will transfer his/her business interests to the other owners for the agreed-upon price when a triggering even occurs. The cross-purchase agreement is negotiated amongst the owners of a business themselves; this means that not all owners must participate or be included in the buy-sell obligations.

Wait and See

A wait and see buy-sell arrangement is a hybrid buy-sell arrangement that combines features of both an entity purchase and a cross-purchase buy-sell agreement. With a wait and see buy-sell arrangement, the buy-sell agreement generally will provide the entity with the first option (aka the "right of first refusal") to buy any portion of the departing or deceased owner's interest within a certain time period after a triggering event. If the entity does not fully exercise this option, the business owners have the second option or right of refusal to purchase the business interests from the departing/deceased owner. Finally, if the remaining owners do not exercise their right of refusal, the entity will be required to purchase the balance of the departing/deceased owner's interest for the agreed-upon value. To meet the obligations under the buy-sell agreement, either the business (generally preferred) or the individual owners will purchase insurance policies on the lives of the business owners.

Cross Endorsement

A cross endorsement arrangement is an alternative to the typical funding approach used with cross-purchase buy-sell agreements.

Under a cross endorsement arrangement, each business owner purchases and owns a life insurance policy on his or her own life and endorses a portion of the death benefit to the other owners.

In return for the business owner endorsing the death benefit to his/her co-owners, the other owners will pay a rental fee equal to the “economic benefit” costs of the endorsed amounts, similar to the economic benefit fees charged under a split dollar arrangement. When the business owner dies, his/her co-owners will receive the portion of the death benefit endorsed in their favor, tax-free,⁶ and will use those funds to meet the purchase obligations under the cross-purchase buy-sell agreement. Any death benefit not endorsed to the co-owners will be paid to the owner’s designated beneficiaries (e.g., spouse and children).

Trusteed

In a trusteed arrangement, a trustee purchases life insurance on the life of each business owner who is a party to the cross-purchase buy-sell agreement and pays the premium on such policies via contributions from the business owners. Upon the death of an owner, the trustee (1) collects the life insurance proceeds, (2) purchases the business interests from the estate of the deceased owner, and (3) distributes the business interests to the surviving owners.

Partnership

This arrangement is similar to the trusteed arrangement; however, instead of creating a trust, the business owners form a partnership. The partnership then purchases a life insurance policy on the life of each business owner and pays the premium via contributions made to the partnership each year by the business owners.

WHAT ROLE DOES LIFE INSURANCE PLAY IN A SUCCESSION PLAN?

Life insurance is a powerful tool that allows a business owner to protect the value of the business by having access to liquidity at the most critical of times. Not only can life insurance provide much needed liquidity after the death of a business owner or other key employee, but a cash value permanent life insurance policy can provide access to cash during the life of the insured, which can be used as a funding source for a lifetime buy-out of the business owner, for a deferred compensation plan, as security for a bank loan...just to name a few.

The tax advantages of life insurance also make it very desirable and a competitive asset for business planning purposes. The proceeds paid upon death typically are received income-tax free and the owner can access the cash that has accumulated in the policy while the insured is alive also free of income taxes. Given that so many businesses today are designed to be pass-through entities (whether it’s in the form of an S corporation, partnership or LLC), which requires the business owners to pay taxes on all income generated by the business (including investment income), the tax advantages of life insurance may make this type of asset even more desirable than other investments.

WHAT TYPE OF BUY-SELL AGREEMENT IS RIGHT FOR MY CLIENT?

Choosing the right structure for a buy-sell agreement can depend on a lot of factors, including:

- **How many owners are involved in the business;**
- **What is the business structure (e.g., C corp, S corp, partnership, LLC); and**
- **Who will pay the premiums and how much control does each owner want over his or her policy.**

While the client's tax counsel will likely help decide what type of arrangement is most appropriate, here are some helpful items to consider:

Basis Increase	With a cross-purchase buy-sell agreement (or variation thereof), the surviving business owners receive basis in the purchased shares or interests equal to fair market value. This is often referred to as the "step-up" in basis associated with a buy-sell obligation. An entity purchase buy-sell arrangement with a C corporation does not provide a similar increase in basis of the remaining shareholders' stock. However, life insurance proceeds received by an S corporation can increase the basis of its shareholders' stock (if certain requirements are met), providing a "step up" to the surviving shareholders.
Number of Policies Required	When there are more than two or three owners, a traditional cross-purchase buy-sell arrangement funded with life insurance can be complicated due to the number of policies that are required. Where there are more than two or three owners, an entity purchase, cross endorsement, trusted cross-purchase or partnership arrangement may be considered.
Transfer for Value	Under IRC section 101(a)(2), the transfer of a life insurance contract or any interest in the contract for valuable consideration can result in a portion of the death benefit being subject to income tax, unless an exception to the transfer-for-value rule applies. Exceptions to the transfer-for-value rule include a transfer to (1) the insured, (2) a partner of the insured, (3) a partnership in which the insured is a partner, or (4) a corporation in which the insured is a shareholder or officer. Care should be taken when choosing a buy-sell arrangement to ensure that there is not an obvious or hidden transfer for value situation for which there is not a permissible exception in order to avoid adverse income taxation. For more information on the application of the transfer for value rules, see our <i>BYA: Understanding Transfer for Value</i> or call Advanced Markets.

BUY-SELL POLICY REVIEW

For your clients with existing buy-sell agreements

Ask the business owner these questions to determine whether their current agreement needs to be updated:

Is the agreement between all of the owners or just some owners?

A buy-sell agreement does not have to apply to all owners of a business, nor does it have to apply the same terms and conditions among the owners, but the owner should be aware of this discrepancy and the reasoning behind why the agreement treats owners differently.

What are the triggering events for the buy-sell obligations?

Triggering events may typically include provisions for death, disability, incapacity, bankruptcy, loss of a professional license, divorce, and/or retirement. If a buy-sell agreement lacks one of these important triggering events, it may be worthwhile to discuss this with the owner.

Who is designated as the buyer of a deceased owner's interest — the company or the other owners?

Whoever has the obligation to buy a departing owner's interest in the business is usually the person (or entity) that will own the life insurance so that the financial obligations can be met at a triggering event. If the business owner has a buy-sell agreement and life insurance to fund the buy-sell, check to see if ownership of the insurance makes sense given the purchase obligations. For example, if the company is required to buy out a deceased owner's interest but a co-owner is the owner of the insurance, there may be a disconnect that needs to be addressed.

Is the buy-sell obligation voluntary or mandatory?

A voluntary agreement means that at a triggering event — e.g., death, disability, retirement, etc. — the remaining business owners have the option to buy out the business interests of the departing or deceased owner. A mandatory agreement mandates that the remaining owners purchase the departing or deceased owner's interests. A voluntary agreement may not adequately protect a business owner or his or her family as it is merely an agreement to agree on how negotiations may take place in the future.

How is the price of a departing owner's interest determined?

The most common methods to determine the price of a departing owner's interest are: by appraisal, book value, a multiple of earnings, discounted cash flow method, or as agreed on annually by the owners. Many of these valuation options — like book value or multiple of earnings — can be susceptible to manipulation and may not provide a departing owner's family with the best value. An appraisal method or an agreed upon price may create less conflict when a purchase is required but have their own costs or administrative issues to consider.

Is your buy-sell adequately funded?

Typically a buy-sell agreement should have provisions that address how a departing owner will be paid by the remaining owners. Common methods for funding a purchase obligation include: an installment sale, creating a sinking fund of investments for the future purchase, borrowing money, and/or life insurance. Life insurance usually is the preferred method of funding.

Is there a management succession plan in place?

A management plan as part of the overall succession plan is especially important with family owned businesses as this is where the most conflict can occur at the death of a senior owner.

Key person or non-owner as successor

It is not unusual for a business owner to indicate that he or she is interested in leaving the business to a key employee or someone else who is not a current owner of the business. Even if the owner names someone else as the successor — like a family member or co-owner — retaining a key employee that knows the business inside and out may be imperative to the successful transition of the business from the owner to the appointed successor.

To help with the successful transition of the owner's business in these scenarios, consider the following opportunities:

Key person or non-owner as successor

➔ One-way buy sell

A one-way buy-sell arrangement is a succession planning solution in which a key employee (or multiple key employees) agrees to buy the business in the event of the owner's death, disability or retirement. Unlike other buy-sell agreements, the obligation to purchase the business falls squarely on the key employee and the owner has no reciprocal responsibilities. As with other buy-sell agreements, life insurance is typically used as the funding source to meet the purchase obligations of the business from the deceased owner's estate.

➔ Employee Stock Ownership Plan (ESOP)

An ESOP is a special type of qualified retirement plan (like a profit sharing plan) created for the benefit of the company's employees that invests primarily in the stock of the employer/company. An ESOP is most commonly used to provide a ready market for the shares of a closely held corporation when a business owner is ready to depart. If a corporate owner does not have a family member, co-owner, or outside buyer interested in taking over the business, or would like to see the ownership of the business transition to the employees, an ESOP can be an effective way to create a source of funds to purchase the owner's interest in the company.

Key person imperative to continued success of the business after transition

➔ Key person insurance on the business owner

In many small businesses, key employees often are as critical to the continued success of a business as the business owner. These individuals have often been with the company from the beginning, know the ins and outs of the business, and may be responsible for maintaining the relationships with clients, customers, vendors, etc. Upon the death of the business owner to whom these key employees are loyal, these individuals may decide to seek opportunity with a competitor (or start a competing business) rather than stay through the transition of the business to a new (and possibly unknown) owner. With that in mind, a key person policy on the life of the business owner would be one way to infuse the business with liquidity that could be used to provide a lucrative incentive to keep these key employees involved in the business, at least for a period of time, so that the business can transition without skipping a beat.

Successor unknown

For a business owner who has no successor in mind, it is important to ask your client what he or she sees happening to the business if something were to happen. Could the client's family step in and take over the business? Would the owner want to put that sort of pressure on his or her family to preserve the value of the business and support themselves? Could the business realistically be sold to a third party and what sort of value could the family expect? At a minimum, are there assets of the business — e.g., inventory, real estate, intellectual property, etc. — that could be sold?

Although there is likely some value that can be generated from the business after an owner decides to retire or passes away, it may be pennies on the dollar compared to the business' value while the owner is alive and well. When there is no true succession plan, a life insurance policy should be considered as a way to protect the owner's family and help replace the value of the business in the estate via the death benefit.

WHERE CAN I LEARN MORE?

Visit the Advanced Markets section on JHSalesHub.com!

In the Business Planning --> Succession Planning section you will find:

Web Tools

- Business Valuation Calculator

Supporting marketing materials, including fact finders and client pieces for:

- Buy-Sell Arrangements
- Key Person

Technical Marketing Material

- BYA: 101(j) Requirements for Employer Owned Life Insurance
- BYA: Understanding Transfer for Value
- BYA: Business Valuation

In addition, our proprietary JH Solutions can produce custom client presentations. Some of the presentations available are:

- Cross Endorsement Buy Sell
- Cross Purchase Buy Sell
- Entity Redemption
- One Way
- Key Person

These are just some of the materials and tools we have available to better help you. If you need help please feel free to contact the Advanced Markets Group.

Key Questions TO ASK

How do you effectively demonstrate to your clients the need for succession planning in a way that will actively engage your clients and convince them to start planning? The answer may be as simple as asking them some key questions that can expose significant impacts to the business if a succession plan is not in place.

If you were unable to come to work for the next 6 months for whatever reason, who would run the business for you? In what condition would you find the business upon your return?

This is a great question to start with as it does not mention business succession planning — a term that could scare the business owner and shut down the conversation — but helps the owner begin to recognize important issues associated with lack of planning and also may help identify key players in the business (other than the business owner) who might be natural successors.

Have you ever thought about who you want to take over the business from you? If so, who is that person?

These questions are meant to determine if the owner has thought about the business' future and, if he or she has, whether those plans are in line with whom the owner identified in the previous question as the person or persons who would be relied upon today to run the business if something happened. For example, the owner may "want" to have his or her business transition to the children, but the children may be young and/or inexperienced. In reality, if something happened to the owner today, a key

employee or other family members might actually be charged with keeping the business afloat until the younger generation is ready to take over. Factoring in these key employees into the business succession plan will be imperative to helping the client realize his or her goals for the business' transition in the future

If you die unexpectedly, can your family continue to run the business?

This question may uncover potential issues or pitfalls associated with not having a succession plan. If the answer is yes, you should ask follow-up questions as to who in the family would take charge, what might be the potential issues associated with an abrupt transfer of the business, etc. to get the owner on his or her way to creating a business succession plan. If the answer is no, you should think about following up with questions that address who might be able to step in and whether the owner is worried about protecting his or her family in this were to happen.

Will your estate have enough liquidity to pay taxes, etc. if you died unexpectedly?

For many business owners the business interests may make up a very large portion of the owner's overall net worth. If that is the case and the owner has (or may have) exposure to estate taxes at his or her death — either at the state and/or federal level — not having liquidity to pay estate taxes could force the owner's estate to sell or liquidate the business interests or take on debt to come up with the estate tax, which is due 9 months after death. Life insurance may be extremely valuable in this type of scenario to ensure the estate has money to pay the estate tax and not force the family to sell or liquidate the business to come up with this payment.

JUST GETTING STARTED

Depending on whom the business owner has named as a possible successor (or whom you have helped identify as a natural successor), here are some more follow-up questions that may help the owner understand (and embrace) the importance of succession planning.

IF THE OWNER WANTS TO LEAVE THE BUSINESS TO HIS FAMILY:

- Would you like your business to remain in your family?
- Are there family members currently active in the business? If so, is there one person that is more of a leader?
- Do you have family members not involved in the business that you want to provide for in your estate plan?
- Do you want your heirs to share equally in your estate?
- How confident are you that the active and inactive members of your business could successfully work together to run the business?
- Would you like to provide a source of funds, other than your business, to provide for your heirs who are not involved in the business?

IF THERE ARE CO-OWNERS:

- Have you and the other owners discussed what will happen if one of you leaves the business?
- Do you have any type of arrangement already worked out between you and the other owners? If so, when was that agreement created and/or last reviewed?
- Will your family be adequately provided for via income from the business if you died unexpectedly?
- Would you want to be in business with a spouse of a co-owner if the co-owner were to die?
- Would you like to have your interests in the business purchased upon your death? What about if you retire or become disabled?
- Do you think the other owners of your business want the same thing?
- How important is flexibility to you in terms of how a purchase or sale of business interests is handled?

IF A KEY EMPLOYEE MIGHT TAKE OVER OR IS IMPERATIVE TO THE CONTINUED SUCCESS AFTER THE OWNER'S DEPARTURE:

- Who are the key employees or "superstars" in your business?
- Have you ever thought about transitioning your business to this key person?
- Would this person have the ability to purchase the business from you? Would you even want them to purchase it or would you rather have the business just go to him/her?
- If you are not around, would you want or need this key person to help transition the business successfully to the next intended owner?
- Would you ever consider having the business become employee-owned?

SUCCESSOR UNKNOWN AT THIS TIME:

- Do you want to be able to take care of your family without being dependent on whether your business will succeed after you are gone?
- Have you considered whether your business is an asset you can sell to a third party? If so, what sort of value do you think you can get and who would be the buyer?
- Would you ever consider having the business become employee-owned?





Retaining & Rewarding Employees

Retaining & Rewarding Employees

Business owners understand that they need to build a solid team of people to further the success of their business. The business owner will either promote employees from within the business or hire new employees who have particular skills, experience, or creativeness to take on more specialized roles and responsibilities in the business.

Some employees will be promoted into executive level positions where they will have decision making power or provide strategic advice to the business owner critical to guiding the business in the future. It is certain that the title, compensation package, and perks of these key employees will reflect their status among the entire employee population. If one or more of these people leave the business it could prove damaging to the business especially if these key people are hired by a competitor.

This is an important area for you to probe with the business owner. At the very least you will learn how the business owner thinks about the employees and his/her willingness to apply business resources to help them. Most employers are willing to provide a level of benefits to all employees balanced by a reasonable cost expectation. For key employees the business owner may be willing to implement special benefit plans that will provide an incentive to the employee to continue working for a period of time. The same can be said if the business owner is trying to attract new employees for key positions that are critical to the long term success of the business.



Qualified vs. Non-Qualified Plans

There are two types of retirement plans that can be used in the business insurance marketplace — qualified and non-qualified plans. The IRS identifies both of these plans as deferred compensation plans and each has advantages and disadvantages depending on the needs of the business. Generally, people are most familiar with **qualified plans** as many business owners offer them to all employees. Common qualified plans are 401(k) plans, pension plans (less frequent today), profit sharing plans, 403(b) plans, and SIMPLE or SEP IRAs (usually for smaller businesses).

Non-qualified plans can be used as a supplement to a qualified plan to provide key highly compensated employees with a source of supplemental retirement income.

QUALIFIED PLANS	NON-QUALIFIED PLANS
Must include all eligible participants in plan design	Can be selective
Must meet ERISA reporting requirements	Less onerous reporting requirements
Employer gets tax deduction for contributions	No tax deduction until benefits are paid
Contributions protected from creditors	Assets subject to claims of corporate creditors

Qualified plans

Qualified plans are a mechanism that can be used by employers to offer all their employees a vehicle for tax deferred savings. The focus of these plans, however, is to help employees set aside funds for retirement; so, while higher paid employees can participate in qualified plans, they may get less, percentage wise, out of the qualified plan than the rank and file employees (see section on Reverse Discrimination on the next page). Qualified plans must comply with the Employee Retirement Income Security Act (ERISA), which was designed to protect individual participants of pension plans. While an in depth review of qualified plans is outside the scope of this Guide, there are some qualified plan considerations that relate to non-qualified planning that will be addressed.

To the extent that ERISA applies to any of the concepts discussed in this Guide, advisors should note that they may be considered a fiduciary and should take appropriate steps to comply with ERISA requirements, including conflict of interest rules.

ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT (EGTRRA)

The Economic Growth and Tax Relief Reconciliation Act (EGTRRA), implemented in 2001, put caps on the amount of compensation that may be used to determine qualified retirement benefits for highly compensated individuals. These caps are indexed for inflation.

Employee Benefit Limits (2018)

Dollar amount for determining	
Highly Compensated Employee status	\$120,000
Includable compensation limit (applies	
to compensation taken into account in	
determining contributions or benefits	
under qualified plans)	\$275,000
Annual retirement benefit limit under	
defined benefit plans (not to exceed	
100% of compensation)	\$220,000
Limit on all contributions to defined	
contribution plans	\$55,000/100%
	of compensation
Maximum employee contribution amount	
to qualified plans	\$18,500

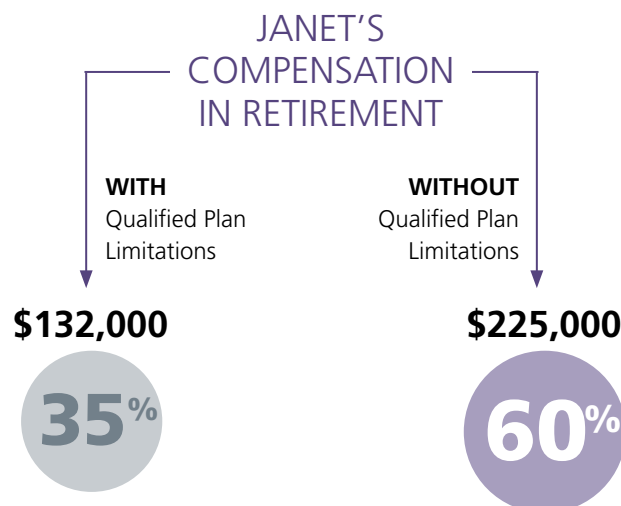
Check out the *Advanced Markets Fingertip Tax Guide* for the most recent information about contribution limits and caps associated with qualified plans.

REVERSE DISCRIMINATION

The compensation and contribution restrictions placed on qualified plans limit the size of the benefits that can be accrued for highly-compensated employees for retirement. When compared to benefits provided to lower-paid employees, these limitations can create a “reverse discrimination” effect that result in highly compensated employees receiving an inadequate percentage of their pre-retirement income in retirement.

Let’s look at an example:

Janet Buckfield, Executive Vice President of Mountain View Industries, receives annual compensation of \$375,000. Her company offers a defined benefit plan that provides its employees 60% of the average of their final three years of compensation in retirement. But, because of qualified plan limitations, Janet will receive \$132,000 (60% of \$220,000) a year in benefits rather than \$225,000 (60% of \$375,000). This is only 35% of her final compensation compared to the 60% that most employees received under the plan.



SOCIAL SECURITY

Highly compensated executives are also faced with “reverse discrimination” when it comes to Social Security payments. Even though Social Security was not intended as a way for workers to maintain their pre-retirement standard of living, it does account for part of the benefits package. In the case of highly compensated individuals, this usually amounts to less than 15% of the entire package.

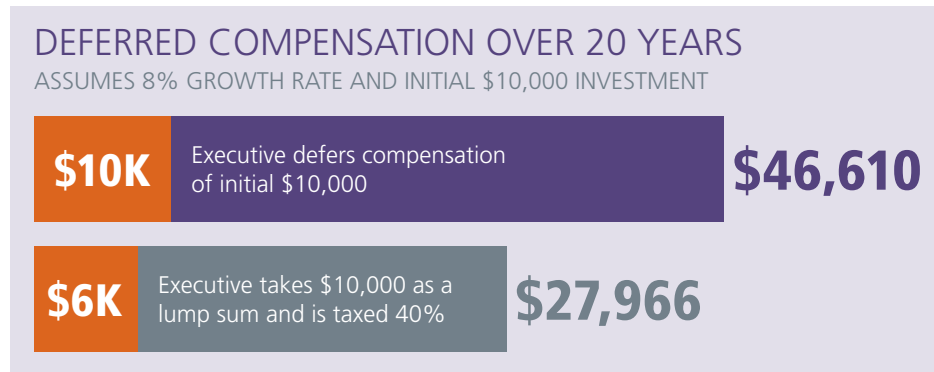
Non-qualified plans

Non-qualified benefit plans are arrangements between an employer and a key employee, which provide the key employee with a form of supplemental retirement income or other benefits in addition to standard qualified plans, such as 401(k) plans. The primary reason that business owners establish non-qualified executive benefit plans is to recruit, reward and retain key employees. These plans are designed to give incentive to the key employees to remain working with the business. For this reason they are commonly referred to as “golden handcuff” plans because the key employee is rewarded in the future for remaining with the business. Non-qualified executive benefit plans have minimal cost to the employer and can help key executives supplement their qualified plan savings. Non-qualified plans are generally not subject to the same tax and labor law requirements (e.g., ERISA) as qualified plans and can be offered to select employees. The retirement benefits paid by the employer generally are income-tax deductible in the year they are paid.



POWER OF DEFERRED COMPENSATION

To understand the power of deferred compensation, let's look at the chart below. The example assumes an executive receives a lump-sum amount of \$10,000. If he or she defers the entire amount it will grow to \$46,610 in 20 years with an 8% growth rate. If he or she takes the \$10,000 as income currently, the after-tax sum received will be \$6,000 (this hypothetical example assumes a 40% tax over 20 years). This amount will grow to \$27,966 in 20 years with an 8% growth rate.



MINIMAL "RED TAPE"

Non-qualified deferred compensation plans do not require formal IRS approval and are not subject to qualified plan contribution limitations. However, these plans may be subject to certain ERISA reporting requirements. Non-Qualified plans that are not entirely exempt may qualify for limited reporting as "Top Hat" plans. A plan may qualify as a "Top Hat" plan if it is created for the purpose of providing benefits to a select group of management or highly compensated employees. Top Hat plans must be in writing and a description of the plan must be filed with the Department of Labor within 120 days of adoption.



Funding Options for Non-Qualified Deferred Compensation Plans

Unlike a qualified plan, where money is set aside and segregated for the benefit of the plan participants and is protected from the creditors of the business, a non-qualified executive benefit plan can only be “informally” funded. This means that any asset used to fund a non-qualified plan is subject to creditors of the business. The business owner is not required to fund the non-qualified plan, but it is generally advised that they do so in order to have the money on hand to pay the benefits when they are due. Options for funding a non-qualified benefit plan are: **self-fund, sinking fund, annuities, or a life insurance policy.** Let’s review each option:

SELF-FUND

The employer pays the retirement benefits from the current cash flow of the business at the time the benefits are payable. A self-funded plan does not have an immediate impact on the company’s cash flow when established, but there is risk that cash flow will not be available in the future.

SINKING FUND

The employer sets up a reserve or sinking fund where cash is invested. Benefits are paid from the sinking fund when the employee retires. The employer assumes the market risk and often invests in high-risk assets to meet its future obligations. The employer must pay income taxes on the fund earnings each year.

ANNUITIES

Similar to the sinking fund, the non-qualified benefits owed to key employees is taken from the annuity. Under the tax code, however, business entities cannot achieve income tax deferral with deferred annuities.

LIFE INSURANCE

Life insurance is a popular funding tool for non-qualified plans because it is cost effective, has tax-deferred accumulation to fund benefits, and the employer may be able to recover all costs of the plan with the death benefit proceeds.

Employer-Owned Insurance & 101(j) Compliance

When life insurance is owned by an employer on the life of an employee, the tax code requires that certain conditions and notice and consent requirements be met to keep the death benefit proceeds income tax-free. This is commonly referred to as the 101(j) requirements, which is a reference to the tax code section prescribing these rules. For more information about 101(j) compliance, please see our [*BYA: 101\(j\) Requirements for Employer Owned Life Insurance*](#) in the pocket of this guide.

Non-Qualified Executive Benefit Plans Incorporating Life Insurance

Consider the following popular executive benefit plans that can be used to recruit, reward and retain key employees:

Salary Deferral Plans

Salary deferral plans are pure contributory plans, which means the entire plan is funded with employee funds; the employer does not contribute. In a salary deferral arrangement the employee elects to defer part of his or her salary, bonus, or commission until a later date, most likely to retirement. These plans are flexible and unlike qualified plans, they do not have maximum deferral limits and do not have to be offered to everyone.

HOW IT WORKS:

In a salary deferral arrangement, the employer and employee enter into an agreement that states that the employer will withhold current compensation due to the employee and will pay it to the employee over a period of time or in a lump sum upon death, retirement, or termination of the plan. The employee makes a voluntary election each year to inform the employer the amount of compensation to withhold. The income received by the employee in the future is taxable at the ordinary income tax rate and the employer will receive an income tax deduction when the benefits are paid.

Advantages

EMPLOYER

- Able to select participants
- May co-exist with qualified plans
- Increase competitiveness with "Total Compensation Packages"
- Minimal set-up cost

EMPLOYEE

- Solves "reverse discrimination" problem
- Tax-deferred growth of assets
- Provides and additional source of retirement income
- Potential unlimited contributions

Supplemental Executive Retirement Plans (SERP)

An employer uses a SERP to provide additional retirement income to a key employee. A SERP is the opposite of a salary deferral plan. It is a non-contributory plan, meaning the employee does not contribute to a SERP, rather the employer is responsible for the funding of the benefit. It is an excellent way for an employer to compensate key employees who are faced with reverse discrimination. The employer has the flexibility to select the employees it wants to participate in the plan, thus increasing retention by rewarding highly compensated employees with a total compensation package.

HOW IT WORKS:

In a SERP arrangement, the employer and employee enter into an agreement that states that the employer will pay the employee a certain amount of money either over a period of time or in a lump sum upon death, retirement, or termination of the plan. The income received by the employee is taxable at the ordinary income tax rate and the employer will receive an income tax deduction.

Advantages

- An excellent way to provide highly compensated individuals with supplemental retirement income
- No cost to the executive
- Provides significant incentive to executives to remain employed with the business

Executive Bonus Plans

Executive Bonus Plans, often referred to as Section 162 Bonus Arrangements, are a simple and cost effective way for the employer to provide an employee with supplemental retirement income. In this situation the employer provides a bonus to the employee in the form of a premium payment on a life insurance policy.

HOW IT WORKS:

The employer determines which employees to include in the plan. The employees will apply for life insurance. The employer will provide the employees with a bonus in the form of the premium payments on the life insurance policy. The employee is responsible for paying the income tax due on the bonus. However, the employer may elect to bonus the employee the premium and the income tax amount. This is known as a double bonus arrangement.

At retirement, the employee will be able to use the policy's cash value for supplemental retirement income. Moreover, the employee has been provided with permanent life insurance protection for the benefit of his or her family.

Advantages

EMPLOYER

- Minimal set-up cost
- Selective participation allowed
- Encourages employee loyalty

EMPLOYEE

- Portable death benefit protection
- Source of supplemental retirement income
- Not subject to qualified plan limits and penalty provisions

Restrictive Endorsement Bonus Arrangements (REBA)

A REBA is an Executive Bonus Plan with a restriction on the executive's ability to access the policy cash value for a stated period of time. The REBA agreement typically states that as long as the employee works for the employer, the employer will continue to pay the bonus. These arrangements may also have a vesting schedule. If a vesting schedule is used it is important to keep it simple and straightforward.

HOW IT WORKS:

The employee owns the life insurance policy, but he or she must file a restrictive endorsement with the life insurance company that issues the policy. The arrangement restricts the executive from (1) surrendering the policy cash value (2) taking loans and withdrawals from the policy (3) changing ownership and (4) using the policy as collateral until the arrangement terminates. The employee retains the right to name a beneficiary.

Advantages

EMPLOYER

- Simple to install
- No minimum or maximum employees
- Employer cost may be tax deductible

EMPLOYEE

- Death benefit protection
- Supplemental retirement income

Choosing the Non-Qualified Benefit Plan

Here are some ways to simplify choosing a non-qualified benefit plan. The first step is to understand the specific goals of the employer and the plan participants taking these six factors into account:

- **Employer tax deductibility**
(immediate vs. delayed)
- **Employer control**
- **Employer cost recovery**
- **Employee tax deferral**
- **Ease of administration**
- **Level of employee participation**

Keep in mind that owners of pass-through entities generally cannot defer taxation of income via a non-qualified plan.

The relative importance of each of these factors to the client will help you determine which plan type best fits the business owner's needs. It will be important for the business owner to prioritize the factors because the factors will often conflict with each other. In general, plans that offer employer tax deductibility have limited employer cost recovery, employer control, and employee tax deferral. Likewise, plans that have greater employer control tend to be more complicated and have more complex administration issues. Therefore, it is very important to find out which of these factors are most important to the business owner, and which factors are "nice to have."

The following chart summarizes the degree to which each plan type addresses each of the key factors:

FACTOR	EXEC BONUS	REBA	NQDC	SERP
Employer Tax Deductibility	High	Medium/High	Low	Low
Employer Control	Low	Medium	High	High
Employer Cost Recovery	Low	Medium	High	High
Employee Tax Deferral	Low	Low/Medium	High	High
Easy Administration	High	Medium	Low	Low
Employee Participation	Medium	Medium	High	Low

Other Considerations

Implementing & administering a non-qualified plan

There are a series of steps that you should expect to complete when implementing a non-qualified plan. Please refer to our [BYA: Implementing Non-Qualified Executive Benefit Plans](#) for more information.

A third party administrator (TPA) may be needed to provide the employer with the proper accounting information for their records and tax returns and to track the performance of the funding vehicle to the expected future benefit payments. Generally the TPAs who administer qualified plans do not provide administration for non-qualified plans so you should expect to seek out a TPA who specializes in this area. The TPA fees can be minimal and they are generally tax deductible to the employer as a business expense. Please contact Advanced Markets for additional information.

IRC 409A & 101(j)

Section 409A of the Internal Revenue Code contains requirements for distribution, acceleration, and elections of a non-qualified deferred compensation plan. Penalties apply to those plans that do not meet those requirements. It will be important for the client to have the legal plan document drafted to account for these requirements. Please see our [BYA: The Impact of Section 409A on Non-Qualified Deferred Compensation Plans](#) or contact Advanced Markets for more information.

Section 101(j) requires that written notice and consent be obtained for all policies owned by an employer on the life of an employee *before* a policy is issued. Record of the consent must be kept by the employer. Employers must also maintain annual records to demonstrate that the requirements of 101(j) are being met, including filing Form 8925 with its annual income tax return each year. Please see our [BYA: 101\(j\) Requirements for Employer Owned Life Insurance](#) (insert to this Guide) for more information.

Non-profit organizations & tax-exempt employers

There are additional considerations that apply when considering a non-qualified plan for a non-profit organization, such as the deferral limitations under Internal Revenue Code section 457(f). See our [BYA: 457\(f\) Plans](#) or contact Advanced Markets for more information.

Split Dollar arrangements

A Split Dollar arrangement is an agreement between the employer and key employee to share the costs and benefits of a life insurance policy. There are two primary types of split dollar arrangements — endorsement and collateral assignment — each one offering different features to help retain and reward individuals key to the success of a business.

In an endorsement arrangement (economic benefit regime), the employer is the owner of the policy but the employee is allowed to name a beneficiary for some or all of the death benefit. The cost to the employee is the “economic benefit” associated with the portion of death benefit being provided. When the employee retires, the employer may elect to take distributions from the cash value to provide supplemental retirement benefits or can transfer the policy to the employee.

In a collateral assignment arrangement (loan regime), the employee (or the employee’s trust) is the owner of the policy and the employer pays the premiums. Each premium payment is considered to be a loan and the cost to the employee for such an arrangement is the interest year-to-year on the outstanding loans. The life insurance policy is used as collateral for the debt until the employer has been repaid. Upon termination of the arrangement, the employer will either be repaid or can forgive a portion or all of the debt as compensation to the employee.

Please contact John Hancock Advanced Markets for more information about split dollar plans.

Key Questions TO ASK

Consider the following questions to start a conversation with the business owner to identify key employees who the owner may want to provide an extra incentive for in order to reward and retain these key people.

Who are the super stars on your team?

How are they important?

Have you put in any benefit plans specifically for them?

Have you included yourself in those plans or do you have a benefit plan specifically for you (and the other owners)?

If a plan already exists ...

- Has any funding been established for the plan?
- Can you explain how the plan works?
- What were the reasons the plans were created?
- Who is the plan administrator?
- Are you happy with the plan?
- If you could change the plan what would you change?

If no plan exists ...

- If you were to implement a plan what would be the top priority?
- Is tax deductibility a major factor?
- Who would you like to include in the plan?

Has your company previously purchased life insurance on one or more employees?

- If yes, were any of those policies purchased after August 2006?
- If yes, did you obtain a notice and consent from the employee/insured prior to issuance of the contract?
- Have you been filing Form 8925 with your company's income tax return each year?

WHERE CAN I LEARN MORE?

Visit the Advanced Markets section on JHSalesHub.com!

In the Business Planning --> Non-Qualified Benefits section you will find:

Web Tools

- Retirement Needs Calculator

Supporting marketing materials, including fact finders and client pieces for:

- Executive Bonus and REBA
- SERP
- Split Dollar

Technical Marketing Material

- BYA: The Impact of 409A on Non-qualified Deferred Compensation Plans
- BYA: 101(j) Requirements for Employer Owned Life Insurance
- BYA: Implementing Non-Qualified Executive Benefit Plans
- BYA: NQDC for Non-Profits- 457(f) Plans

In addition, our proprietary JH Solutions can produce custom client presentations. Some of the presentations available are:

- Cross Endorsement Buy Sell
- Key Person
- Cross Purchase Buy Sell
- One Way Buy Sell
- Entity Redemption

These are just some of the materials and tools we have available to better help you. If you need help please feel free to contact the Advanced Markets Group.



Retirement & Estate Planning

Retirement & Estate Planning For Business Owners

Business owners have many of the same individual planning needs as their non-business owner counterparts. While the importance of saving for retirement and creating an estate plan is not lost on business owners, they are often so busy running the day to day operations of the business that these important planning needs get put on the back burner. As the advisor, you can help remove the obstacles preventing a business owner from moving forward with important personal planning by:

- IDENTIFYING POTENTIAL PITFALLS from lack of planning;
- PROVIDING OPTIONS to consider;
- OUTLINING NEXT STEPS to take to accomplish goals or address pitfalls;
- PROJECTING RETIREMENT INCOME and/or exposure to estate taxes; and
- DISCUSSING IMPORTANT TAX IMPLICATIONS to their overall plan.

Retirement Planning

Will the owner have enough in retirement?

As of 2017, roughly half of today's households will not have enough retirement income to maintain their pre-retirement standard of living.⁷ The statistics regarding Americans preparedness for retirement can be unnerving, especially when it comes to small business owners. A study released by the Small Business Administration in 2010 indicates that retirement account ownership, contribution, and participation rates for small business owners are low — only 18% participate in a 401(k)/Thrift plan, less than 2% own a Keogh plan, and only about 36% own an IRA (and of those individuals, only 33% actually contributed to the IRA). Moreover, self-employed individuals are less likely to hold a retirement account as compared to those who are wage-and-salary workers.

Even business owners who are utilizing more traditional retirement vehicles may be concerned about retirement planning, particularly with regard to contribution limits and access to plans, which prevent higher-income business owners from putting aside enough money for retirement that will allow them to maintain their pre-retirement standard of living.

Although there are numerous reasons why business owners may not be contributing to traditional retirement savings accounts, three of the most often-cited reasons are:

- They are **not going to retire** from their business
- They are going to **sell the business** and use the proceeds for retirement needs
- **Barriers to entry and exit** from traditional retirement savings plans

NOT GOING TO RETIRE

Even though a business owner may not envision a retirement where they are not part of the business, it is important to explore the various scenarios. What if they have a change of heart and no longer want to work? What if they experience an illness or life event that prevents them from working?

SELLING THE BUSINESS

Relying on a sale of the business for retirement income can have significant risks, including:

- The value of the business at retirement can be hard to predict, especially since the owner will no longer be involved
- It might be difficult to find a buyer at the appropriate time. Retirement income can be reduced if the owner gets sick or injured prior to selling the business
- The decision to sell the business may be changed if family members are actively involved in the business

SKEPTICAL OF TRADITIONAL PLANS

For many business owners, contributing to a traditional retirement plan is not ideal because they may be restricted from accessing the money contributed without being penalized. Additionally, concerns with regards to administration of a plan (and the costs associated with them), contribution limits, and having to offer plans to other full time employees prevent many owners from pursuing traditional retirement accounts.

Once you have a clear picture of what the business owner would like his or her retirement to look like, including an approximate age of when he/she would like to be financially independent/retired and the progress he/she has made towards accomplishing these goals, consider using the ***John Hancock Retirement Needs Calculator***. Other tools/marketing resources are italicized rather than bolded in the rest of the guide. This compares current assets earmarked for retirement against stated future income goals and calculates any potential shortfall between the two.

How can life insurance help when it comes to retirement planning?

Cash value life insurance can help business owners by providing a tax-advantaged source of supplemental retirement income on top of death benefit protection. Consider the following benefits of using life insurance as a part of an overall retirement strategy:

Tax Advantages	Life insurance can provide a tax-free death benefit and tax-deferred cash value growth. For business owners who are constantly thinking about taxes, life insurance can provide discretionary non-reportable tax-free income because distributions from policy cash value can be accessed tax-free via loans and withdrawals.
Creditor Protection	Depending on state law, life insurance may provide creditor protection of both the accumulated cash value and death proceeds.
Flexibility	<p>Unlike a 401(k) plan, IRA or other retirement accounts, a life insurance policy does not have contribution limits, can be accessed prior to 59½ without penalty, and does not have required minimum distributions.</p> <p>Additionally, a properly structured policy can have flexibility traditionally not available with other plans allowing the business owner to put more money in the policy in some years and skip premiums in others.</p>
Long-Term Care	A life insurance policy with a long-term care rider can protect the business owner by providing tax-free acceleration of death benefit if the owner has a qualified long-term care event.

For business owners, a permanent life insurance policy can provide long term flexibility to help them become financially independent and ready for their retirement years.

Clients may be skeptical about using life insurance as a supplemental retirement vehicle as compared to using more traditional investment options. Consider using the IRR reports available with a policy illustration and/or an *“Invest in Your Life”* presentation (available in JH Illustrator and JH Solutions) to demonstrate the competitiveness of using life insurance as part of a well-diversified retirement strategy.

Estate Planning

Clients engage in estate planning to properly execute their wishes and distribute their accumulated wealth. With business owners, there is an additional layer of complexity given that the business may make up a large portion of the estate. Estate Planning encompasses succession and buy sell planning, but it is much more than that, it is managing the business as an asset in their personal estate.

Estate planning includes making sure that wills, trusts, power of attorney, and health care proxies are in place, but it also encompasses making sure your client's legacy continues and that their family is equipped to survive the loss of the primary breadwinner.

Planning Opportunities

Life insurance to pay estate taxes

The federal estate tax exemption has been increased to over \$10 million (\$20 million⁸ for married individuals), indexed for inflation, but in 2026 this amount is scheduled to revert to \$5M, indexed for inflation. High-net-worth business owners must consider the potential impact of federal estate taxes and may need to find liquidity to pay for the estate tax, which is generally due 9 months after death. Without proper planning to address these liquidity needs, the estate of a business owner may need to sell business assets in a short period of time, creating an unfavorable fire sale of the business the owner worked so hard to create and make profitable.

Life insurance has been used by many business owners as a means to cover the estate taxes due and provides liquidity for the client's estate right when it is needed most. In order to keep the death benefit proceeds outside of the business owner's taxable estate, life insurance will typically be owned in an Irrevocable Life Insurance Trust (ILIT).

In addition, many business owners who qualify can also look into a 6166 election, which allows for the estate tax to be paid and stretched over a period of time (generally 15 years, and generally at favorable interest rates). A 6166 election combined with life insurance owned in an ILIT is a powerful strategy that helps prevent a fire sale of a business and with cash flow — although ultimately liquidity may still be a problem. See our [BYA: Section 6166 — Deferring Estate Taxes](#) or call Advanced Markets for more information.

State Estate Taxes

Even if your affluent business owner client is not subject to federal estate tax, do not overlook state estate tax. While this tax is lower than the federal one, it is still one that can require liquidity and can potentially affect those who are worth less than \$20M. Since state estate tax law is specific to each state, use our [Know the Law tool](#) to find out what the state exemption is in your client's state.

Estate equalization

Does your client want his/her business to be transferred to children or other close family members? Do the children get along? Is one child more invested in the business than the others? Does the owner want all the children to get equal shares of the business? What does the business owner think is fair? Has the client made plans to take care of and/or protect a surviving spouse who may not be involved in the business?

Passing on a family business to the next generation can present administrative and practical challenges, especially when some heirs are more active in running the business than others. It is not uncommon for conflicts to occur between heirs who are active in the business and those who are not over salaries, dividends, asset purchases, etc. On the other hand, leaving a business entirely to certain heirs and excluding others is almost sure to create inequality and conflict unless the estate has sufficient liquidity to balance inheritances. In circumstances like those, liquidating the asset and distributing the proceeds can seem like the only option if good relations are to be maintained.

Estate equalization is a planning approach that attempts to distribute a client's estate so that all children get an equal or fair share, according to the client's wishes. Liquidity in the estate may be imperative in order to accomplish this equalization especially when a large portion of the estate is made up of business interests. Because a life insurance death benefit offers a pool of liquidity at exactly the time liquidity is needed, it can facilitate estate planning goals, helping to give each heir the inheritance the business owner would want them to receive.

Use our *Estate Tax Calculator* to estimate estate taxes and help uncover how much life insurance your client will need.

Key Questions TO ASK

Here are some key questions that you can use to initiate a conversation with the business owner regarding his or her retirement and estate planning goals, strategies and shortfalls:

What does your retirement look like?

This is a great way to start a conversation about retirement without putting the business owner on the defensive about whether or not he or she has done enough to meet specific retirement goals.

Have you thought about when you would like to retire?

The owner may have a specific age in mind or may refer to a specific event that may precipitate their retirement (e.g., after children are all out of college, when a successor owner is ready to take over, etc.).

If, the owner says that he or she is never going to retire, consider following-up with:

I understand you love your business and you do not envision ever retiring, but what if you could not work due to an illness or you simply did not want to work any longer — what is plan B?

A discussion with the owner about having to work versus not wanting to/not being able to work should be explored. Often times when speaking to a client who wants to continue to be engaged in their business indefinitely, the focus should shift towards financial independence versus retirement.

If they say they are going to sell the business to retire, follow-up with:

- Who will buy the business? Do they want to transfer the business to family? Key employee? What is the business worth? Does the business fluctuate in value?
- Have you taken any steps to save for retirement outside of your business? If so, what have you done?
- How much are they saving into retirement?
- What is the growth rate of their retirement assets?
- Are they contributing to social security and do they want to factor in social security into their retirement picture?

Do you have a will or trust in place?

- **If yes ...** When it was last updated? Have there been any changes since it was last updated (marriage, divorce, children, grandchildren)?
- **If no ...** Tell me about the legacy you want to leave. Have you decided how you would like to distribute assets to your spouse, children, and grandchildren?

Do you own life insurance? If yes, how much and how did you determine the amount that you need? Who are the beneficiaries of your life insurance? Who owns the life insurance?

Sometimes a business owner will have life insurance for buy sell coverage, and while this is part of the equation, it probably doesn't help with other personal needs such as covering mortgages, and other goals.

What is your total net worth?

This question is meant to determine if your client may be subject to Federal Estate Taxes or state estate taxes. If your client's estate or joint estate with his or her spouse is large enough to be subjected to either federal or state estate taxes, consider asking the client if he or she is concerned about the estate's ability to pay estate taxes. See the following pages for more information on federal and state estate taxes.

Who is going to take over your business? Tell me more about that transition; are you transferring the business to children or other family members?



WHERE CAN I LEARN MORE?

Visit the Advanced Markets section on JHSalesHub.com!

In the Estate Planning and Living Benefits sections you will find:

Web tools such as:

- Estate Tax Calculator
- Retirement Needs Calculator
- Needs Analysis Calculator
- Know the Law - Interactive Map

Supporting marketing materials, including fact finders and client pieces for:

- Estate Planning
- Supplementing Retirement Planning Using Life Insurance
- Invest in Your Life
- Estate Equalization

Technical Marketing Material

- BYA: State Estate Taxes

In addition, our proprietary JH Solutions can produce custom client presentations. Some of the presentations available are:

- Invest In Your Life
- Life Insurance in Retirement Planning
- Estate Equalization
- Needs Analysis

These are just some of the materials and tools we have available to better help you. If you need help please feel free to contact the Advanced Markets Group.

Additional Considerations



Using Business Dollars to Pay for Insurance

For most business owners, their primary source of income and wealth are directly tied to the profits of their business. Because business owners likely will be using business dollars to pay the premiums on a life insurance policy, advisers inevitably will be asked what is the most tax efficient way to use these business dollars to pay for this insurance. The answer to this question will largely depend on the tax structure of the business, the purpose of the insurance, and the personal tax rate of the owner in comparison to the corporate tax rate.

For example, an owner of a C corporation who needs life insurance primarily for death benefit coverage — e.g., protection, estate equalization, estate taxes — may want to consider using corporate dollars to pay the premiums using a Split Dollar arrangement, especially when the owner is in a higher tax bracket than the corporation.

Alternatively, the owner of a pass-through entity (S corporation, partnership, sole proprietor) may be best served by taking a distribution from the company to pay premiums. As a starting point, consider the following:

PURPOSE OF INSURANCE	C CORPORATION		PASS-THROUGH ENTITY	
	Owner tax rate less than Corp tax rate	Owner tax rate greater than Corp tax rate	Owner % greater than 25%	Owner % less than 25%
Death Benefit	Bonus Plan or Dividend	Split Dollar	Distribution	Split Dollar
Cash Value Accumulation	Bonus Plan or Dividend	Deferred Compensation* (not for controlling shareholders)	Distribution	Bonus Plan or Deferred Compensation*

* In this type of arrangement the policy is typically owned by the business — not the individual.

Bonus plan

This is when the company distributes earnings to an owner via a “bonus,” which is taxed to the owner as earned income. This type of plan can help fund personal life insurance for either death benefit or retirement accumulation needs, or other tax-favored vehicles like a deferred annuity.

A bonus plan is most commonly used with C corporations where the business owner’s personal tax bracket is equal to or lower than the corporate bracket. This could occur in personal service corporations, high-net-profit corporations, or where the business owner has a low tax bracket due to other write offs or charitable gifts. By taking an income tax deduction in the higher corporate tax bracket and taxing the owner in his/her lower personal bracket, tax leverage can be gained. Taking a bonus also eliminates possible double taxation in the future, which may occur when money is left in the corporation.

A bonus plan may also be appropriate for an owner of a pass-through entity where he/she owns a minority percentage of the company (generally less than 25%).

Deferred compensation

Typically used with non-owner executives, a deferred compensation plan can be used with business owners in situations where the personal tax bracket is higher than the corporate bracket and the business owner is not a majority owner. By leaving money in the lower corporate bracket, higher personal taxes can be delayed until a later date such as retirement. Deferred compensation is not recommended for majority corporate owners whether tax leverage can be gained or not.

This design generally is not recommended for S corporation or partnership owners because owners of pass-through entities pay tax on profits whether they leave them in the company or take them out. Consequently, deferred compensation provides no tax advantage. However, if the owner holds only a small percentage of the company, some of the personal tax can be deferred, and the money will be taxed to the other owners.

Distribution

This refers to a distribution of profits by a pass-through entity to the business owner. Because the owner of a pass-through entity is required to pay tax on company earnings each year based on the owner's proportional interest in the business, a distribution of earnings from prior years may be received by the owner free of income taxes.

Dividend

This refers to a distribution of profits by the corporation to the business owner. Typically, an owner will pay capital gains tax on any qualified dividends received.

Split Dollar

This type of arrangement usually calls for the business to pay premiums on a policy owned by the business owner (or trust created by the business owners), with the requirement that the owner (or trust) repays the business sometime in the future. It provides needed life insurance coverage in situations where the corporate tax bracket is significantly lower than the business owner's personal tax bracket. By paying the life insurance premiums in the lower corporate bracket, and taxing the business owner on just the relatively small reportable economic benefit in his/her higher tax bracket, tax leverage can be gained.

Product Selection

What life insurance product best suits your business client and his/her needs? It depends on their planning needs, risk tolerance, cash flow and more. Here is how to begin the discussion:

- Time duration: Does the client have a short term need (i.e., protection to a creditor for a loan that will be paid off in 10 years) or indefinite/long term needs (i.e., estate planning and providing a legacy)?
- In addition to death benefit protection, does the client need to supplement retirement income for either themselves or their employee?
- Is the business owner concerned about balance sheets and would they like to “keep assets on the books”?
- What is the client’s risk tolerance?
- What is the client’s discretionary income/cash flow situation?

Understanding the options

The reality is that there are many options available to meet your client’s business and personal needs. John Hancock has a comprehensive and competitive life insurance portfolio available to meet your client’s needs, including risk tolerance and cash flow. The spectrum of life insurance options include solutions for short term needs (such as debt coverage) to long term needs (such as supplemental retirement needs). To best navigate the available choices, let’s start by comparing term versus permanent life insurance policies.

PURPOSE OF INSURANCE	PERMANENT	TERM
Death Benefit Protection	Yes	Yes
Cash Value Accumulation	Yes	No
Acceleration of Death Benefit during lifetime to cover long-term care expenses	Yes	No
Flexibility based on changing needs	Yes	No

TERM INSURANCE

Term insurance provides death benefit protection for a specified period of time. It is the lowest cost life insurance product because the premium paid is for death benefit only — there is no cash value. Term policies can be purchased so that a level premium is paid for a period of 10, 15, or 20 years, after which the premium increases and will continue to increase annually.

Business application for term insurance:

Business owners will generally use term insurance when cash flow is low, and/or the need is short term. The following strategies can be funded with term:

- Key person
- Most buy-sell (excluding Cross Endorsement Buy Sell)
- To cover a debt or obligation

PERMANENT INSURANCE

Permanent life insurance provides lifetime death benefit protection with a cash value component. Annual premiums are higher for permanent insurance than for term insurance, but permanent life insurance offers the opportunity for cash value to build inside the policy. The policy owner can access the cash value using tax advantaged withdrawals or loans.

John Hancock's competitive and comprehensive life insurance portfolio can be summed up in two simple words: **protection and accumulation**. When your client's goal is to maximize the rate of return on the death benefit, John Hancock's protection products offer a solution. If tax-advantaged cash value growth potential is the primary focus, John Hancock's accumulation products are the answer.

Business application for permanent insurance:

Business owners will generally use permanent insurance as a means to build cash value and death benefit. The following strategies can use permanent life insurance:

- Key person
- Buy Sell Plans
- SERP, Executive Bonus/REBA, Salary Deferral, Split Dollar

HELPFUL TIPS ON TERM INSURANCE:

TIP #1: If your client is experiencing a low cash flow, but is anticipating better cash flow in the future, many term products offer the ability to convert to a permanent policy.

TIP #2: If your client is interested in living a healthy lifestyle, our John Hancock Term with Vitality product might be a great option.

HELPFUL TIPS ON PERMANENT INSURANCE:

TIP #1: Many permanent policies will offer premium flexibility for business owners with uneven cash flow.

TIP #2: The cash value of a corporate-owned permanent policy is considered an asset of the corporation, which may be important to a business owner who needs or wants to keep assets on the books.

TIP #3: Learn about the various riders and options that may be available on a permanent policy. The following riders/options may be appealing to your business owner customer:

- 1) LTC Rider
- 2) Healthy Engagement Rider (Vitality Program)

Long-Term Care (LTC)

Long-term care costs are an important issue for business owners and employees as these costs can have a negative impact on the strength of a business. What if the business owner or a close family member suffers a long-term care event? What would happen to the business? Would the business cash-flow be able to support the costs associated with the long-term care services needed? Did you know:

- **Approximately 70% of people over the age of 65 will require long-term care services during their lives.⁹**
- **The national average for 24-hour home care or one year in a nursing home is more than \$102,000.¹⁰**
- **Long-term care in the United States is needed by 10.9 million “community” residents, half of them non-elderly.¹¹**

In order to insure against some of these risks and help protect business owners and their families, John Hancock offers a long-term care rider on a life insurance policy. When combined with a John Hancock permanent single life insurance policy, the optional LTC rider allows policyholders to accelerate their death benefit to help pay for long-term care expenses, should the need ever arise.

Any portion of the death benefit not used to cover these expenses remains in the policy, and is later paid as a life insurance benefit.

Long-Term Care Riders & Business Owned Policies

Although in most cases an LTC rider will be placed on a life policy owned by the insured-employee or business owner, in some cases it may be possible to include an LTC rider on a business-owned policy, especially if the policy will be distributed to the employee or business owner at a later date. If the business is the intended policy owner, it is necessary to demonstrate how the business will pass on those benefits to the insured in order to place the LTC rider on a business insurance case.

**Long-term care rider —
accelerated death benefit
protection for when its
needed most**



Summary

John Hancock has an extensive product portfolio to help your business owner clients. For a snapshot of our offerings that may be of particular interest to business owners, please see the inserts in the pocket of this Guide. For more detailed information on our product offerings please contact us.

Where to go from here?

As discussed in this Guide, the business market represents a huge opportunity for financial and insurance advisers alike. Business owners need life insurance to:

- **Provide supplemental benefits to recruit, reward and retain employees;**
- **Safeguard a business after the death of an owner or other key employee; and**
- **Protect the business owner and their family when they exit the business.**

Because life insurance offers death benefit protection, cash value accumulation (in permanent policies), and a myriad of tax benefits, life insurance offers an unparalleled solution to address most any concern or goal of the business owner.

Moreover, choosing to work with business owners could give you a competitive edge and help you distinguish yourself from other financial professionals. Now that you know ...

- **Where and how to prospect**
- **Key questions to ask**
- **How to identify and prioritize an owner's goals and concerns, and**
- **Planning opportunities that will address those key areas of interest**

... you're ready to provide a valuable service to your business clients (new and existing), which, in turn, should lead to a loyal and ever-expanding client base for your own business.

ADVANCED MARKETS AND YOUR DISTRIBUTION PARTNERS ARE HERE TO HELP.

If you have any questions about anything you have read in this Guide or would like to speak with a member of the John Hancock Advanced Markets team on a business planning case, **please contact us at 1-888-266-7498.**

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3. Wealth and Worth. www.ustrust.com/UST/pages/insights-on-wealth-and-worth-business-2017.aspx
4. Family Business Alliance. Retrieved May 2015: http://www.fbagr.org/index.php?option=com_content&view=article&id=117&Itemid=75
5. Ibid
6. Transfer for value rules under IRC Section 101(a) must be considered in this type of arrangement in order for the death benefit to be received tax-free.
7. National retirement risk index shows modest improvement in 2016. crr.bc.edu/wp-content/uploads/2017/12/IB_18-1.pdf January 2018.
8. Under the Tax Cuts and Jobs Act of 2017, increased gift, estate and GST tax exemptions are scheduled to sunset back to \$5M (indexed for inflation) after 12/31/2025.
9. U.S. Department of Health and Human Services, National Clearinghouse for Long-Term Care Information, accessed July 1, 2013.
10. John Hancock Cost of Care Survey, conducted by LifePlans, Inc. 2016.
11. 011 LTCi Sourcebook, American Association for Long-Term Care Insurance "Facts at your fingertips - Aging & Need."

For Agent Use Only. This material may not be used with the public.

Insurance policies and/or associated riders and features may not be available in all states.

Loans and withdrawals will reduce the death benefit, cash surrender value, and may cause the policy to lapse. Lapse or surrender of a policy with a loan may cause the recognition of taxable income. Policies classified as modified endowment contracts may be subject to tax when a loan or withdrawal is made. A federal tax penalty of 10% may also apply if the loan or withdrawal is taken prior to age 59½.

Life insurance death benefit proceeds are generally excludable from the beneficiary's gross income for income tax purposes. There are few exceptions such as when a life insurance policy has been transferred for valuable consideration. Comments on taxation are based on John Hancock's understanding of current tax law, which is subject to change. No legal, tax or accounting advice can be given by John Hancock, its agents, employees or registered representatives. Prospective purchasers should consult their professional tax advisor for details.

Trusts should be drafted by an attorney familiar with such matters in order to take into account income and estate tax laws (including the generation-skipping tax). Failure to do so could result in adverse tax treatment of trust proceeds.

This material does not constitute tax, legal, investment or accounting advice and is not intended for use by a taxpayer for the purposes of avoiding any IRS penalty. Comments on taxation are based on tax law current as of the time we produced the material.

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The Long-Term Care (LTC) rider is an accelerated death benefit rider and may not be considered long-term care insurance in some states. There are additional costs associated with this rider. The Maximum Monthly Benefit Amount is \$50,000. When the death benefit is accelerated for long-term care expenses it is reduced dollar for dollar, and the cash value is reduced proportionately. Please go to www.jhsalesnet.com to verify state availability.

Vitality is the provider of the John Hancock Vitality Program in connection with policies issued by John Hancock and the Healthy Engagement Rider.

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