Should You Buy Out Your Spouse or Sell the Business in a Divorce?

By June 28, 2018

The right legal strategy protects your business assets during and after a divorce. Business owners have unique needs that need to be addressed to keep their businesses profitable.

Business assets may be subject to division when a couple decides to divorce. So you may find yourself having to choose between buying out your spouse or selling the business.

Each option has its benefits and limitations. Understanding them is the first step to protecting your financial wellbeing and securing the future of your business.

When is it Time to Buy Out Your Spouse?

Equitable division is the process of dividing and distributing marital assets that are shared by spouses in a divorce. Separate assets don't go through this process as long as they haven't been commingled with marital assets.

When both spouses share ownership of a business, the process becomes more complex, requiring careful planning to ensure that you protect your business.

This is even more difficult when spouses disagree on how to address a shared business. One individual may choose to buy out the other to maintain ownership and avoid disruptions to the organization.

You can choose to buy your partner's interest in the business only if you have the cash to purchase it. Although many divorces involve lump-sum payments, spouses may choose to arrange a payout that's distributed over time.

You may consider liquidating other assets in order to obtain the money needed to buy your partner's share of the business.

You can relinquish personal assets as a way to purchase your partner's share of the business.

When Selling the Business Might be the Right Choice

In some cases, selling the business may be the best option. It ensures that both spouses receive their fair share of the value of the business and prevents any complicated or costly legal processes.

You and your spouse need to determine the value of the business in order to make sure that you get your fair compensation.

Consider the potential to find a buyer quickly. The market may not favor the sale of your business.

This is especially true in cases where the business is struggling to be profitable. If you're unable to find a buyer, it can prolong the process.

Partners may disagree on the value of the business, requiring you to provide even more evidence to support your case.

Economic downturns can reduce the value of your business. So timing your sale is an important factor to keep in mind.

Legal Protection When Selling Your Business or Buying Out Your Spouse

Consulting with a family law attorney with experience in protecting business assets is critical to the outcome you achieve.

Your attorney will give you the resources you need to protect your business. But you may need to find a business valuation professional to determine the market value of your business.

This requires the evaluation of your business assets, revenue, and other important information.

Your attorney reviews all documents submitted during the valuation process. A legal professional can maintain the integrity of a sale and help you secure your business assets.

You need to prevent your spouse from selling any business assets until the divorce is finalized. The courts may issue their own requirements for how the sale will take place.

Having the right attorney at your side helps you move through the process easily and with fewer issues.

Buying out your spouse or selling your business are two options business owners can consider. Knowing which is the right strategy for you will help you protect your business assets and create a more secure financial future.