Tips on wills and succession planning for business owners

1. If a company owns the business and there are two or more shareholders, you should have a shareholders agreement or, at the very least, a buy and sell agreement. The agreement should provide for the surviving shareholder to have an option to purchase the shares of the deceased shareholder.
2. It will be of great assistance if you leave guidelines for your executor and your heirs on what to do with your business after you have passed away. These guidelines should not be part of your will. They can be drafted in layman's terms and should contain simple pointers on how to ensure that the business can continue running smoothly after you have passed away.
3. If one of your children runs your business together with you, for example, your son is farming with you, you need to do careful planning. You would want to ensure that your son can smoothly take over the running of the farming business after your death. You would also want to treat your other children fairly and look after your wife. Several options can be considered to achieve this.
4. Should you be the only director of your company, you should consider appointing someone else as a further director who could carry on managing the business of the company after you have passed away.
5. If only you have signing powers for the bank accounts of the company, you should consider adding a further trustworthy person as an authorised signatory to enable that person to carry on with the management of the company's bank account after you have passed away.
6. If you are the only member of a close corporation that owns a business, you should consider converting the close corporation into a company to enable you to appoint an additional director, apart from you, who could then carry on running the affairs of the company after you have passed away.
7. The executor of your deceased estate can, as a general rule, exercise all the rights the deceased as a shareholder was entitled to exercise, including the appointment of a director or directors for a company.
8. If you are married in community of property, own a business and want to

leave your business to your son and not your wife after you have passed away, bequeathing and transferring the business to your son might not be as simple as you thought. You should get legal advice to help you draft your will.

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