# BUSINESS OWNERS: TIME TO UPDATE THAT ESTATE PLAN

As a business owner, you're also probably what's known as a family steward—someone who wants to take good care of his or her family, provide for them and help set them on their own paths to success and happiness.

That's a big reason why estate planning—the process for how you transfer your wealth—is crucial for all successful business owners who want to make certain that after their passing, their loved ones are adequately provided for and taken care of. When done well, estate planning aims both to allow you to pass on your assets as you see fit, and to minimize the state and federal tax bite that often accompanies the transfer of significant wealth.

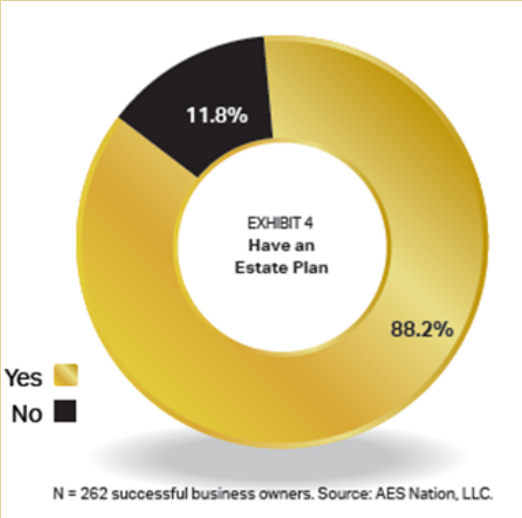
But if you think that your current estate plan is up to those tasks, you might want to think again. Here's why your estate plan may need to be refreshed—and how to do it the smart way.

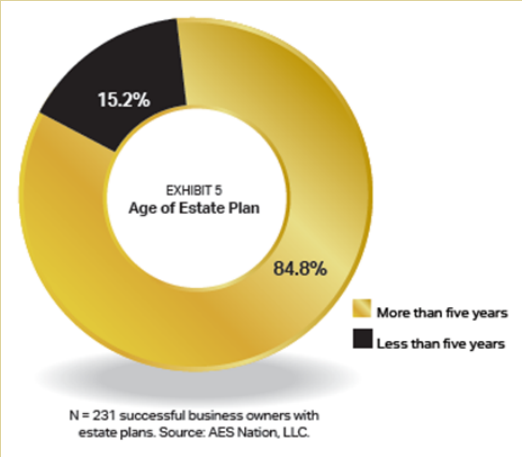
## KEY TAKEAWAYS:

- About 85 percent of successful business owners' estate plans are more than five years old—a recipe for unintended, potentially disastrous results.
- Given the tax law changes that are likely coming our way, it's the right time to review and update your plan as needed.
- Distributing your assets at death as you want them to be distributed—not the tax benefits of any one solution—must be the No. 1 driver behind any estate-planning decisions.

# TODAY'S PLANS NOT SET UP FOR SUCCESS

At first glance, successful business owners seem to be in good shape when it comes to planning for the eventual transfer of their estate. Nearly nine out of ten of you have an estate plan—which is defined as having, at a minimum, a will (see Exhibit 4). Having at least a will in place should help your loved ones avoid a great deal of trouble and stress when you pass on.



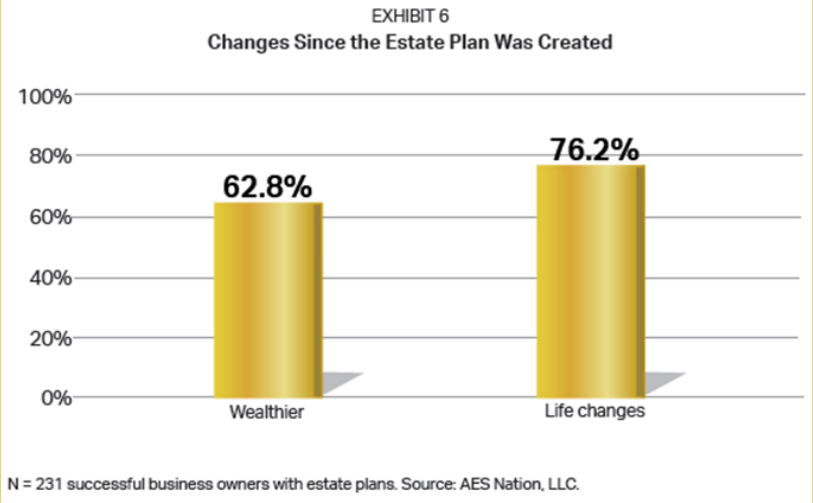




**EXAMPLE:** More than 60 percent of successful business owners report that they have become wealthier since they created their estate plans, while more than 75 percent say that they have experienced life-changing events since they created their estate plans (see Exhibit 6). These events—from divorce to the birth of children or grandchildren to the death of prospective guardians for minor children, and so forth—can have major impacts on planning for the future

The bad news: A closer look shows that you may not be nearly as well-prepared for wealth transfer as you think you are. About 85 percent of the estate plans that successful business owners have in place are more than five years old (see Exhibit 5).

Here's why that's a big deal—one that should raise a red flag that your plan could be outdated:

- Continual changes in tax laws mean that older estate plans may not take full advantage of current opportunities to transfer assets optimally.
- Tax law changes could mean that some aspects of an older estate plan are no longer valid or soon may not be valid. That's especially true today, when the new administration is seeking to overhaul many aspects of the tax code.
- Changes in your company's financial health and in your own wealth status mean that your estate plan may no longer accurately reflect your financial situation and your future needs and goals.
- Changes in your personal and family situation may make your estate plan ineffective in accomplishing what you now want it to do.




The message is clear: The current estate plans for a sizable number of successful business owners are almost certainly outdated. In order to attain the greatest benefits from estate planning, you need to stay on top of the matter and revise your estate plans when appropriate—especially as new events develop that potentially affect your company and your personal wealth.

# THE DANGERS OF AN OUTDATED PLAN

When an estate plan is missing key elements or no longer reflects your wishes or current situation, chaos can occur that harms a business owner's family.

**EXAMPLE #1:** An affluent business owner dies without so much as a will. Suddenly, unknown relatives who live thousands of miles away appear and demand a share of the wealth—leaving the immediate family members and closest loved ones with far less. In the worst case, the company itself may need to be dissolved to pay for all the claims and taxes.

**EXAMPLE #2:** A business has taken on new partners and stakeholders since the estate plan was first written. At the primary owner's death, family members end up suing each other for control of the assets and fighting over the future direction of the firm.

**EXAMPLE #3:** An entrepreneur's bright-eyed 5-year-old boy has become a drug-addicted 20-something. If the estate plan calls for him to receive a huge lump sum with no strings attached upon the entrepreneur's death, he could squander the money in short order—and potentially put his life at risk if, for example, he uses the money to deepen his dangerous lifestyle.

# GETTING CURRENT

If you're among the roughly 85 percent of business owners with estate plans older than five years, what should you do?

Start by answering a few key questions:

- Has your financial situation changed since the last time you did the estate plan?
- Have your business interests changed, or have the people who are involved in your business changed?
- Has anything else changed in your life?

If the answer is "yes" to any of those questions, it's time to update your plan.

Some issues to consider as you assess and rethink your current plan:

- How you want any children to receive assets—in a lump sum, spread out over a period of years, etc.
- Whether to distribute assets using a fairness approach (each family member gets what he or she needs or deserves, in your eyes) or an equalization approach (every family member gets the same amount of money).
- Your succession plan for your business and how well it works with your larger estate-planning goals.
- The existing documents you have in place—and whether they are up to date and as you want them. Documents that should be part of all estate plans include a basic will, trust documents, beneficiary forms for life insurance and investment/retirement accounts, durable power of attorney, health care power of attorney, living will (advance medical directive), inventory of assets, list of contacts (bankers, advisors, attorneys, etc.), list of passwords to email and other online accounts, and funeral arrangements

**PRO TIP:** ***Determine the ideal outcome first.*** Distributing your assets at death as you want them to be distributed must be the No. 1 driver behind any estate-planning decisions. Knowing what you want to have happen to your wealth is foundational. Don't start the updating process by seeking out solutions or focusing on how you can cut your estate tax bill by the maximum amount possible. That's a big mistake.

**DANGER:** The strategies and products that enable maximum tax benefits come with strings attached that require you to entirely cede control of the assets you want to transfer—an outcome that may be highly undesirable. Always remember: The true goal of estate planning is to transfer your wealth in accordance with your wishes. Tax mitigation, while often very important and very beneficial, should not be the overriding driver of your estate-planning decisions.

# TAKE ACTION

If, after reading this article, you suspect your estate plan is out of date, you'll want to take action soon so you don't needlessly jeopardize your family's well-being.

Contact a legal or financial professional who can assist you with your estate planning needs.

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VFO Inner Circle Special Report
By Russ Alan Prince and John J. Bowen Jr.