

How to transfer shares to a child

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The Record

Q. My daughter has been in the family business for 10 years and I'd like to recognize her efforts. Can I transfer shares of the business into her name?

The transfer of an interest in the business from parent to child raises a number of challenging issues.

Taxable gift. The transfer is a gift, and potentially subject to gift tax. In the United States, a person may make gifts of \$13,000 to another person each year without gift tax consequences (\$26,000 with the consent of the donor's spouse). In addition, each person has an aggregate \$1 million lifetime gift tax exemption, which may be applied against gifts in excess of the \$13,000 annual exclusion amount. If the value of gift(s) in any single year to another person exceeds the \$13,000 threshold, the gift(s) must be reported to the IRS on a gift tax return, and the return may be audited.

Control of the business. Like many business owners, you may not wish to relinquish control of the business. A recapitalization of the company to create voting and non-voting interests could allow you to retain the voting interests and control, while providing your daughter with a non-voting equity interest in the company.

What could happen to her interest? Once your daughter owns an interest in the business, it is subject to the risks in her life, such as a claim by a divorcing spouse or a creditor. A buy-sell agreement can address this. Transferring the business interest to a trust instead of outright to your daughter also may be appropriate.

Spouse and other children. Before making a gift to a child, make sure your spouse's income and security needs are addressed. In addition, consider the effect of the gift on other children, if any. There are many ways to equalize children who are not in the business; for example, through an equalizing bequest or life insurance.

You should consult with an experienced attorney to develop a well thought-out business succession plan.

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