Key Planning Ideas for Business Owners and Executives

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What We'll Discuss

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Retaining top talent on your team.

Protecting your business against the loss of key people.

Buy/Sell planning for business owners.

Ways to fund Deferred Compensation Plans or reposition corporate assets for more efficient growth.

Retaining Key Employees

- What is the cost of losing a key employee?
- 50-200% of their salary
- What's the total estimated cost of voluntary turnover to businesses annually?
- $600 Billion according to a report by the Society for Human Resource Management
- Are your key employee's compensation and benefits package up to par to retain them?

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Strategies on how to retain key employees

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First, all the basics must be done right: a competitive salary, bonus plan, potentially stock/equity (if public much easier to do), profit sharing, a competitive benefits package, 401(K) match.

But what about when the above isn't enough? What about your top 10-20% of employees? If you could do more for them to ensure they stay, would you?

Deferred Bonus Plans Supplemental Executive Retirement Plans can help!

Short Term Deferred Bonus Plans

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These are non-qualified plans; typically, must be reserved for a certain group of employees and only up to a certain # of employees (talk to your attorney!). However, they are not subject to ERISA requirements, and you CAN be unequal in what you do here.

We are commonly creating these for periods of anywhere from 3 years – 5 years and tying it in with non-solicit and non-recruit agreements.*

Typically, a plan will pay 30-50% (if 3-5 years) of their salary if they stay to the end of the period. Some call this a "stay bonus" as they must be there at the end to receive it.

One of the requirements of these plans is that they are a general obligation of the business; therefore, in the event the company goes bankrupt the employee's benefit is at risk (just like in Non-Qualified Deferred Compensation). You cannot specifically tie an asset of the company to this bonus plan, but most reasonable business owners do "informally" fund this liability (does your CFO really want an asset and liability mismatch!?)

Ways to Fund it…

* must be done along with signing of agreement.

Supplemental Executive Retirement Plan

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Like the Bonus Plan, but for a longer period (10-15 years or to a certain age).

May be layered in along with shorter deferred bonus plans.

Same rules about who this can be set up on and this being a general asset of the company.

What to fund it with here? Cash, investments, or permanent life insurance

Can also be set up with additional benefits if using permanent life insurance by using split dollar life insurance, protecting both the company and the employee's family.

$400,000 - PERMANENT LIFE INSURANCE

$200,000 BASE | $200,000 BLENDED TERM

PREMIUMS PAYABLE TO AGE 100

Annual Premium: $10,000.00
Monthly Premium: $863.00
Includes a $4,948.00 Recurring Additional Premium

Andrew Bird | Issue Age 42 | Male | Non-Tobacco | Premier | Gender Neutral Rates

SPLIT DOLLAR PLAN - VALUES FOR ENGLEBIRD LLC

Non-Guaranteed Dividends used to purchase paid-up additions
Based on current non-loan dividend interest rate, which is 5.75%. Policy changed to paid-up at the end of year 15

	1	2	3	4	5	6	7
Age (End Yr)	Annual Policy Outlay*	Employer Annual Outlay*	Employer Cumulative Outlay	Employer Accumulated Value (after loan)*	Employer Death Benefit (after loan)*	Participant Death Benefit (after loan)*	Total Death Benefit (after loan)*
43	10,000	10,000	10,000	5,090	200,000	200,000	400,000
44	10,000	10,000	20,000	10,995	200,000	200,000	400,000
45	10,000	10,000	30,000	20,662	200,000	200,000	400,000
46	10,000	10,000	40,000	30,849	200,000	200,000	400,000
47	10,000	10,000	50,000	41,583	200,000	200,000	400,000
48	10,000	10,000	60,000	53,029	200,000	200,000	400,000
49	10,000	10,000	70,000	65,181	200,000	200,000	400,000
50	10,000	10,000	80,000	78,089	200,000	200,000	400,000
51	10,000	10,000	90,000	91,772	200,000	200,000	400,000
52	10,000	10,000	100,000	106,278	200,000	200,000	400,000
53	10,000	10,000	110,000	121,685	200,000	200,000	400,000
54	10,000	10,000	120,000	138,035	200,000	200,000	400,000
55	10,000	10,000	130,000	155,389	200,000	200,000	400,000
56	10,000	10,000	140,000	173,802	201,724	201,724	403,449
57	10,000	10,000	150,000	193,279	211,991	211,991	423,982
58	-150,000	0	150,000	0	0	72,745	72,745

Buy Sell Planning For Business Owners

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Most businesses have a buy/sell agreement in place, but many don’t know how it will operate at key events.

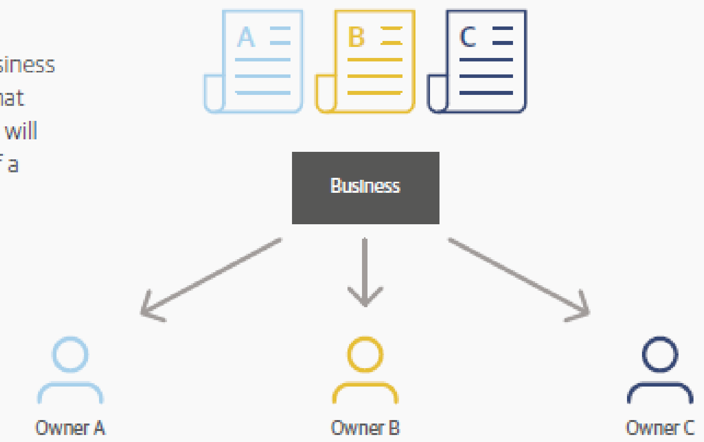
Buy Sell funding for death/disability can typically be accomplished inexpensively using term life insurance/disability buyout. Sometimes it makes sense to use permanent life insurance if also part of an exit plan.

Cross Purchase vs. Entity Owned: be aware of Connelly Rule.

HOW IT WORKS: ENTITY PURCHASE

During life of owners

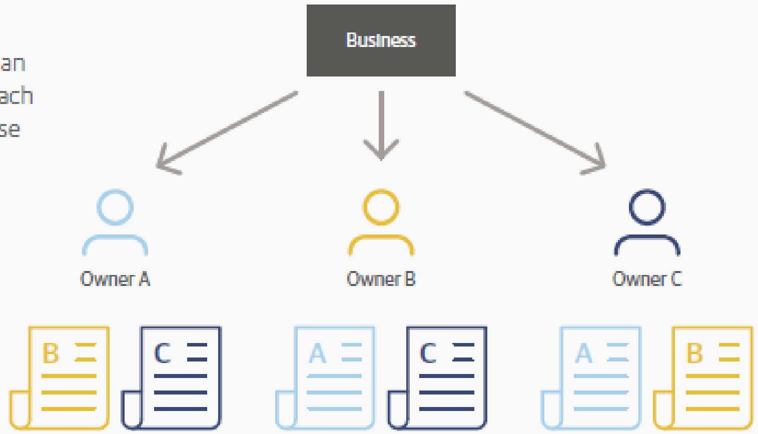
- The business owners and the business entity enter into an agreement that provides that the business entity will purchase the business interest of a deceased owner.
- The business entity is applicant, owner, and beneficiary of a life insurance policy on each of the business owners (so the business owns a policy on A, on B, and on C).



HOW IT WORKS: CROSS-PURCHASE

During life of owners

- Business owners enter into an agreement providing that each surviving owner will purchase the business interest of a deceased owner.
- Each business owner is applicant, owner, and beneficiary of a life insurance policy on the other owners (so A owns policies on B and C; B owns policies on A and C; and C owns policies on A and B.).



Funding Deferred Compensation Tax Efficiently or Repositioning Treasury Assets

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- Many Deferred Compensation Plans we've run across are funded either by cash/cash equivalents, or mutual funds/ETFs, index funds, etc.
- We can help clients fund these plans using traditional investments, but these investments are not always tax efficient.
- Traditional Permanent Life Insurance isn't known as a "get rich quick" type of asset, often having a negative value in early years, however, in the Corporate markets, with 10+ insureds polices can be issued guaranteed without underwriting and the cash value can be accretive from day one and balance sheet positive in year one.
- The tax advantages of life insurance (tax-deferred growth of accumulated value, income tax free death benefit) make this an ideal asset that many companies are choosing to use to help fund deferred compensation plans, or even just use to reposition corporate assets that are low yielding or tax inefficient.

NON-CONTRIBUTORY SPLIT DOLLAR PLAN
Prepared For
ABC Corp

Key Executive Age 55
Northwestern Mutual Custom Universal Life - ES-Ins
Death Benefit equals Specified Amount
Cash Value Accumulation Test

Initial Specified Amount:	$1,299,369
Initial Base Amount:	$1,056,356
Initial Supplemental Amount:	$243,013
Initial Annual Premium:	$100,000.00

Year	Age (BOY)	(1) Corporate Annual Split Dollar Payment	(2) Cumulative Corporate Split Dollar Payment	(3) Corporate Death Benefit	(4) Corporate Cash Value^	(5) Value of Economic Benefit	(6) Executive Death Benefit	(7) Executive Cash Value^
1	55	100,000	100,000	799,369	102,662	796	500,000	0
2	56	100,000	200,000	799,369	208,183	860	500,000	0
3	57	100,000	300,000	799,369	314,744	934	500,000	0
4	58	100,000	400,000	799,369	422,829	1,031	500,000	0
5	59	100,000	500,000	799,369	533,519	1,162	500,000	0
6	60	100,000	600,000	799,369	645,917	1,329	500,000	0
7	61	100,000	700,000	799,369	758,439	1,524	500,000	0
8	62	100,000	800,000	800,000	870,700	1,710	499,369	0
9	63	100,000	900,000	900,000	984,508	1,826	469,609	0
10	64	100,000	1,000,000	1,049,854	1,114,911	2,186	500,000	0
11	65	0	1,000,000	1,102,810	1,155,734	2,478	500,000	0
12	66	0	1,000,000	1,157,798	1,213,699	2,809	500,000	0
13	67	0	1,000,000	1,214,918	1,274,444	3,168	500,000	0
14	68	0	1,000,000	1,274,201	1,338,067	3,570	500,000	0
15	69	0	1,000,000	1,335,735	1,404,697	3,998	500,000	0
16	70	-1,000,000	0	0	0	0	899,574	422,374

Questions/Comments?

If you have any additional questions, please email andrew.bird@nm.com or call 414-615-2935.

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CAUTION: Loans taken against a life insurance policy can have adverse effects if not managed properly. Policy loans and automatic premium loans, including any accrued interest, must be repaid in cash or from policy values upon policy termination or the death of the insured. Repayment of loans from policy values (other than death proceeds) can potentially trigger a significant tax liability, and there may be little or no accumulated value remaining in the policy to pay the tax. If loans equal or exceed the accumulated value, the policy will terminate if additional cash payments are not made. Policyowners should consult with their tax advisors about the potential impact of their policy loans.

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Planning for the Future: Key Employee Planning

Retention, Managing Key Employee Risk, and Legal Guardrails

Michael Gentry

Why Key Employee Planning Matters

Challenges in Workforce Management

Talent shortages across industries

Increased mobility of professionals

Heightened data-security and competitive-risk environment

Losing key employees disrupts revenue, clients, culture

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Who Are “Key Employees”?

- Employees whose continued service is disproportionately valuable, including:

- Top billers, rainmakers, and sales leaders
- Employees with specialized or institutional knowledge
- Holders of critical client or customer relationships
- Individuals essential to operations or firm culture

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Retention Without Losing At Will Flexibility

The challenge:

How do you build security around key employee retention without creating job guarantees?

At Will Employment

Default rule in most states

Allows quick separation when necessary

Avoids "lifetime employment" claims

Reduces litigation risk

Clear disclaimers required

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The Manager Risk Factor

Emails and informal statements can undermine at-will status

Performance management must be:

- Consistent
- Documented
- Defensible

Manager training is essential

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At-Will Employment Agreements for Key Employees

- If all employees at will, what's the point?
- At will agreement vs. "term of years"
- Employment contracts do not require a term, can retain at-will flexibility

- Protections for:
  - Company property
  - Data security/ acceptable use
  - Confidentiality obligations
  - Vehicle for restrictive covenants

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Retention Tools That Work with At Will Contracts

- Stay or contingent bonuses
- Deferred compensation arrangements
- Equity or phantom equity programs
- Performance based compensation frameworks
- Mentorship, career pathing, recognition programs

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Contractual Protections for the Company

- Confidentiality agreements
- Client and employee non-solicitation
- Intellectual property assignment clauses
- Garden-leave style paid notice periods

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Strategic Use of AI for Key Employees

AI assists — it does not replace — top talent

- Reduces administrative and repetitive tasks
- Automates drafting, data analysis, and scheduling
- Frees key employees to focus on:
  - Relationship building
  - Business development
  - Innovation

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Using AI to Protect Business Information

AI tools can support:

- Data monitoring
- Anomalous behavior detection (e.g., mass downloads)
- Access-control management
- Document tracking
- Stronger trade-secret protection posture

Guardrails for Safe AI Adoption

Internal AI-use governance:

Approved tools

Permitted data inputs

Closed vs. open "training" systems

Vendor requirements:

Encryption

Retention limits

Confidentiality

Regular vendor audits

Employee training on responsible AI use

Legal Guardrails for 2026

Areas impacting key employees:

- Key employee leave and FMLA
- Post-employment restrictions

FMLA: Employer Coverage Basics

Applies to employers with **50+ employees**

Coverage depends on:

Employer size	Employee tenure and hours	Worksite location

Employee Rights During and After FMLA Leave

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- Leave may run concurrently with paid leave
- Right to return to same or equivalent position
- No retaliation for exercising FMLA rights

Federal vs. Wisconsin Key Employees

Federal FMLA *excepts* Key Employees from reinstatement rights

The employer must prove that reinstating the employee causes severe, long-term financial harm, not just minor inconveniences or costs.

Wisconsin FMLA *contains no key employee exception*

Noncompetes in 2026

- Wis. Stat. § 103.465
- Focus on:
  - Narrow tailoring
  - Reasonableness
  - Wage-level protections

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Noncompetes in 2026

- An enforceable non-compete must necessary for the protection of the employer.
- Recovery of attorneys fees from new employer predicated on employing in violation of noncompete. *Frey Construction & Home Improvement, LLC v. Hasheider Roofing & Siding, Ltd.*, 2025 WI App 4, 414 Wis. 2d 740

Key Takeaways

IDENTIFY KEY EMPLOYEES EARLY

RETAIN THEM WITHOUT UNDERMINING AT-WILL STATUS

USE COMPENSATION AND CONTRACTS STRATEGICALLY

ALIGN AI ADOPTION WITH LEGAL GUARDRAILS

REMEMBER LIMITS TO NONCOMPETES AND ALTERNATIVES

Questions?

THANK YOU!

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