Consider the No-Sell Buy-Sell Strategy

by Terri Getman, JD, CLU, ChFC, RICP AEP(Distinguished)

Building a successful business is not an easy task. Often, entrepreneurs and their families place personal needs second to business demands during the start-up and growth years. As the years pass, the business begins to appreciate, with prosperity just around the corner. However, the untimely death of the entrepreneur may mean that rewards never materialize for the heirs, and years of sacrifice go for naught.

In situations where business owners have a desire to equalize the benefits between the first and last to die and they agree that a deceased owner's heirs should share in the anticipated future appreciation, the "no-sell buy-sell" may be the answer.

The No-Sell Buy-Sell Strategy

The underlying concept with this strategy is the separation of ownership and control. This can be accomplished by restructuring the business into voting and non-voting interests. To assure ongoing control by the surviving owner, a cross purchase agreement is established to transfer only the voting interest at either owner's death. The non-voting interest remains with the family heirs.

Since the heirs of the deceased business owners retain the non-voting interest, they continue to share in the anticipated future appreciation of the business. To assure the heirs of the deceased have adequate estate liquidity, and/or income, each owner establishes an irrevocable life insurance trust to hold life insurance equal to the fair market value of the non-voting interest retained by the family. With such a structure the heirs will receive cash from the life insurance equal to what they would have received if they had sold the entire business interest, while retaining the non-voting interest.

Benefits of the Strategy

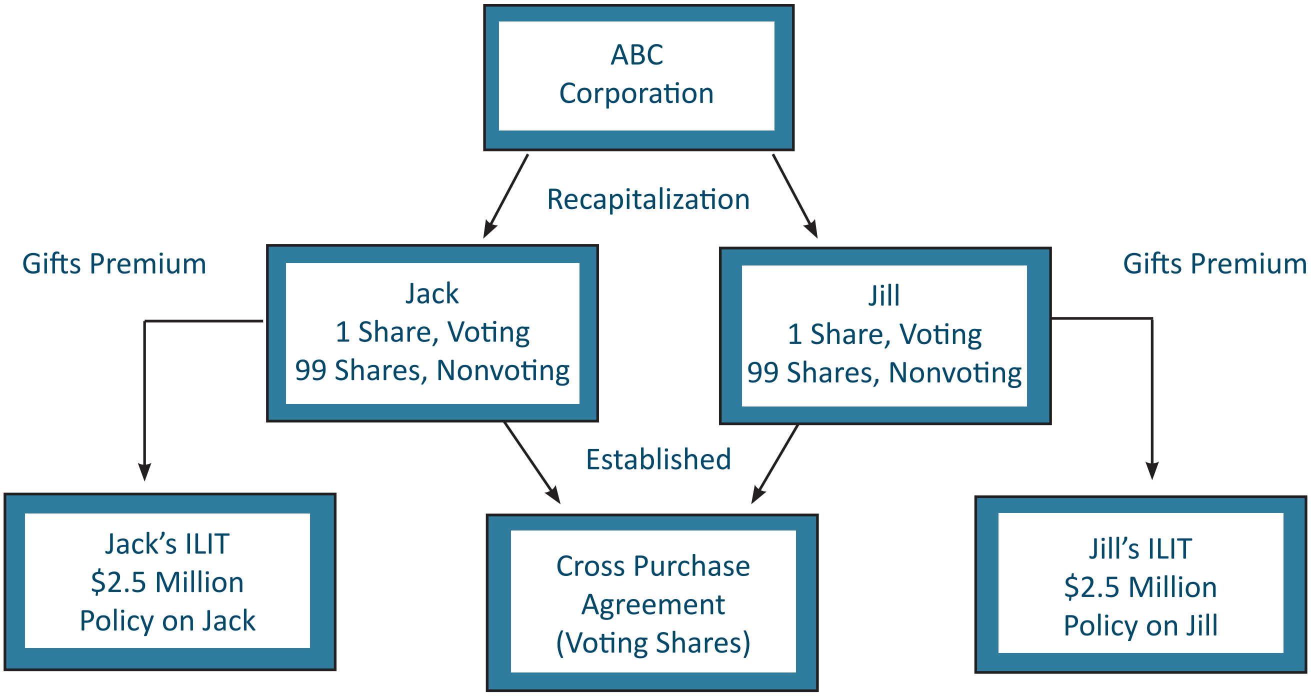
There are three primary benefits to the no-sell buy-sell strategy.

- The surviving business owner retains full control over the business, while the heirs of the deceased owner share in the anticipated future appreciation.
- The estate of the deceased business owner may be able to discount the value of the non-voting interest retained for lack of control and marketability.
- With life insurance funds in place equal to the value of the non-voting interest and a buy-sell agreement providing for the purchase of the voting interest, concerns about lack of marketability are lessened.

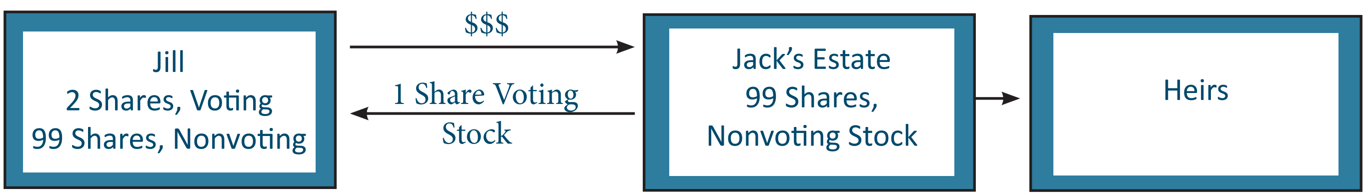
How Can DBS Help?

For more information on how the no-sell buy-sell strategy might work for one of your business clients contact DBS's advanced case design resource, Terri Getman, J.D., CLU, ChFC, RICP, AEP (Distinguished) at 800-869-1327, ext.230.

Structure of the No-Sell Buy-Sell Arrangement



AT JACK'S DEATH, the cross purchase arrangement is honored



The Results...

- Jill owns 100% of the voting stock and 50% of the nonvoting stock and retains control of the business.
- Jack's heirs own 50% of the nonvoting stock and continue to share in the upside potential of the business.
- Jack's ILIT has access to $2.5 million cash for estate liquidity purposes or to purchase the nonvoting shares.
- Jack's estate may be able to value the nonvoting stock at a discount, thereby reducing the estate tax due.

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