**CHECKLIST ON CRITICAL QUESTIONS**

**ON BUY/SELL AGREEMENTS**

Many business owners are often anxious when it comes to business related negotiation. In order to prevent this anxiety from getting any worse, the business owner must learn to properly address business problems and find solutions to these issues as soon as possible. You can utilize this checklist made up of the following questions in order to not only prevent as many possible problems from popping up in your business, but to also give you insights as to what possible solutions may be applied and put into effect under such problems.

**THE APPLICABILITY OF THE AGREEMENT**

* Will the business agreement be exclusively applicable to the present owners or will the agreement legally bind all owners during the entire term or period of the business?
* Will the business agreement be able to redeem a business interest, provided that the agreement will supersede every one of the previous agreements?
* Will the agreement be given a proper and thorough review on an annual basis? (A unanimous decision as a result of a votation is required if there are any modifications to be made to the business agreement.)

**THE TYPE OF AGREEMENT**

* + Will the agreement’s structure be similar to a **redemption agreement**?

A redemption agreement is one that will help offer the company protection in the event that one of the company's shareholders either passes away, becomes subject to any injury that leaves him disabled, or has opted to retire or leave the company by declaring that the company will be able to purchase back the interest of the shareholder.

* + Will the agreement’s structure be similar to a **cross-purchase agreement?**

A cross-purchase agreement is a business document that will allow a company’s stockholder or business associate to buy another stockholder or business associate’s shares and/or interest provided that this stockholder has passed away, has become subject to any injury that has left him disabled, or has opted to retire or leave the company by declaring that the company.

* + Will the agreement’s structure demand that only the seller can sell and that only the buyer can buy?
  + Will the agreement’s structure permit the buyer to be given the option to request for the seller to sell?
  + Will the agreement’s structure permit the seller to be given the option to request for the buyer to buy?
  + Will the agreement’s structure permit grant the seller a right to express first refusal to a buyer?
  + Will the death of the business owner lead to the owner’s interest being automatically bought out or will it permit any of his family members or heirs to be given ownership of the business?

**THE BUSINESS’S BUYOUT PRICE AND ALLOTTED PAYOUT PERIOD**

* + Will it be necessary to state the buyout price offered by a deceased owner’s estate, family member or heir? If you answered yes, how long until the buyout price will be completely settled and paid for? What interest rate can be applied that will be most beneficial?
  + Will it be necessary to state the buyout price offered to a disabled business owner? If you answered yes, how long until the buyout price will be completely settled and paid for?
  + Will it be necessary to state the buyout price offered to a resigning or dismissed owner be addressed? If you answered yes, how long until the buyout price will be completely settled and paid for?
  + Will the buyout price be affected if a peaceful parting from the company can be achieved? If you answered yes, how long until the buyout price will be completely settled and paid for?
  + Will it be necessary to state the buyout price offered to a business owner who has filed for bankruptcy? If you answered yes, how long until the buyout price will be completely settled and paid for?
  + Will the buyout price be affected if you are making a transaction with a long term business partner or associate instead of one who is not connected with the business?

**THE BUSINESS’S FUNDS AND FINANCING**

* + Will the agreement offer the buyout price to be settled by a reliable insurance policy or trustworthy investments?
  + Should the agreement state that the business will be funded via life insurance, will there be a need to address the type of life insurance utilized?
  + Is there a need for a life insurance trust fund?
  + Will the entirety of the proceeds gained from the insurance policy be utilized in redeeming the interest?
  + Is it possible that a portion of the proceeds will be utilized to aid the business in its recovery from the loss of its owner?
  + Will the life insurance policies, along with its cash values, be re-assigned to the owner upon retirement?
  + Will the life insurance policies, along with its cash values, be re-assigned to the owner upon termination?

**SECURITY**

* Is it necessary to have the agreement secured and certified?

If the question stated above was answered as yes:

* + Will security be in the form of a covenant pertaining to business assets?
  + Will security be in the form of a personal guarantee from the other owners?
  + Will security be in the form of an oath that will require the owner to abstain from implementing salary increases, settling dividends or applying for loans in order to pay off all outstanding liabilities applicable to the beneficiaries?

**LOANS**

* + Will there be a need to address the current state of the owner’s loans (either a receivable loan or a payable loan) if the agreement were to be cancelled due to the owner dying or becoming disabled?
  + Will there be a need to address the current state of the owner’s loans (either a receivable loan or a payable loan) if the agreement were to be cancelled for any reason other than the owner dying or becoming disabled?

**NON-COMPETITION COVENANT**

* + Will a non-competition covenant be included in the agreement?
  + If yes, is there a need for geographic restrictions and/or time limits?

**OTHER WHAT IFS TO CONSIDER**

* + Will there be a period of disability prior to the new owners buying out the business from an owner who is considered as disabled?
  + For the purposes of planning for estate-taxes, will the owner be granted the right to assign his or her rights in the business to a trust?
  + Will it be necessary for the spouse of the business of the owner to sign the buy/sell agreement as well?
  + Are there any family members or heirs who currently own or hold any stocks?