

Is There a Place for a Family Member with Special Needs in The Family Business?

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Ninety percent of businesses in the United States are “family businesses” which produce half the nation’s GNP and create 80% of our new jobs. Over half of the Fortune 500 companies are family controlled, so “family business” is not necessarily synonymous with small business. Surely there are family members of these family businesses who have special needs!

OVERVIEW

Is there a place for family members with special needs in the business - as either an employee, owner, or both? Perhaps. If so, is there a way to accomplish each goal and still allow the family member to retain government benefits? YES!

In developing its strategic plans, the family business should determine its core values; not only for the business, but also for its employees and family members who are working inside or outside the daily operations of the business.. If part of those core values include providing appropriate accommodations to individuals with special needs, a family member should not be excluded from the potential employee pool just because they are a family member – unless there are special rules relating to all family-member employees. In other words, the special needs family member should be treated as any other family member, and also as any other employee with special needs; no more and no less.

The same rules should apply to family members with special needs owning an interest in the family business (referred to as “stock” ownership for simplicity). The business should establish rules which are – first and foremost – in the best interest of the business, and then in the best interest of the family. Planning with a special needs family member simply adds one additional element to that challenge.

INCOME ISSUES

Let’s assume the family business has planned for its operation and future and has decided the family member with special needs should be allowed to work in the business and potentially own stock, just like any other family member. Can those two goals be achieved without jeopardizing the family member’s government benefits; particularly Medicaid? Yes, as long as the normal income and resource limitation rules relating to Medicaid qualification are carefully considered and safeguarded.



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If a family member with special needs is working in the business, neither her resources nor income should exceed the respective limitations in her state of residence necessary to maintain her SSI and Medicaid benefits. While these will vary from state-to-state, generally speaking, the employee's countable resources should not exceed \$2,000 (see below regarding stock ownership) and (in the majority of states), her monthly gross earned income (assuming there is no unearned income or ISM provided by others) should not exceed \$1,500 per month (this is adjusted for inflation each year). This will leave her with at least \$1 of SSI, which will automatically qualify her for Medicaid in most states. Here is how Social Security will calculate this:

Wages	\$1,500
SSA does not count first \$20	<u>- 20</u>
Subtotal	\$1,480
SSA does not count first \$65 of wages	<u>- 65</u>
SSA does not count ½ this amount	\$1,415
Wages SSA does count	\$ 708
The most SSA will pay in any month	\$ 710
Minus income SSA counts (see above)	<u>- 708</u>
Total SSI payment for month	\$ 2

This results in automatic Medicaid qualification in the majority of states.

For an individual with significant special needs, it might require more work to generate this level of income than she might reasonably be able to perform. But imagine the increased self-esteem she would feel by successfully working; not to mention having “a little extra jingle in her pocket!” There are details that should be considered in reaching these employment conclusions, but they can be achieved with proper planning.

OWNERSHIP IN THE BUSINESS

While beyond the scope of this brief article, the same can be true with regard to ownership in the family business: Here an alternative form of ownership, like a third party special needs trust, would seem to be in order. In putting family business stock in a special needs trust some tricky income tax rules will need to be considered with the business's accounting and tax advisors, but the end goal can be achieved if thoughtfully considered. Utilizing an appropriately designed special needs trust can further the business's goals, help achieve the core values of the business and family, give the family member with special needs parity with other family members and provide a security blanket (i.e. equity in the business) to that family member.

Like planning for any business, planning for owners and employees who happen to have special needs can be challenging. But, like any challenge, the rewards – for the family member, the family business, and the other employees of the business – can be remarkable. As such, they should be thoughtfully considered in the normal course of planning for the business and the family.

